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Committee on the Elimination of Discrimination
against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATED PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

AUSTRALIA

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CONVENTION ARTICLE 18 REPORT

INTRODUCTION

This report to the Committee on the Elimination of Discrimination Against Women established by Article 17 of the Convention on the Elimination of All Forms of Discrimination Against Women is submitted by Australia in accordance with the requirements of Article 18 of the Convention. It is the product of a co-operative effort by the Federal Government and the State Governments of New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania, and the Government of the Northern Territory.

Australia has received and considered the guidelines adopted by the Committee on the Elimination of Discrimination Against Women at its second session and has prepared its report in accordance with those guidelines. It looks forward to the opportunity to discuss the report and the issues associated with it with the Committee.

Part I of this Report describes the framework within which the Convention is applied in Australia; the effects of ratification, and the means by which Australia seeks to ensure the equality of men and women. Part II provides specific information in relation to each substantive provision of the Convention, concerning the means by which the enjoyment of rights is assured and any factors which may restrict the exercise of such rights.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

ENTRY INTO FORCE FOR AUSTRALIA: 27 AUGUST 1983

The instrument of ratification of the Convention on the Elimination of All Forms of Discrimination against Women deposited by the Government of Australia with the Secretary-General contained the following reservation:

THE GOVERNMENT OF AUSTRALIA states that maternity leave with pay is provided in respect of most women employed by the Commonwealth Government and the Governments of New South Wales and Victoria. Unpaid maternity leave is provided in respect of all other women employed in the State of New South Wales and elsewhere to women employed under Federal and some State industrial awards. Social Security benefits subject to income tests are available to women who are sole parents.

THE GOVERNMENT OF AUSTRALIA advises that it is not at present in a position to take the measures required by Article 11(2)(b) to introduce maternity leave with pay or with comparable social benefits throughout Australia.

THE GOVERNMENT OF AUSTRALIA advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat-related duties. The Government of Australia is reviewing this policy so as to more closely define 'combat' and 'combat-related duties'.

Australia made the following statement at the time of depositing its instrument of ratification:

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise.

PART I - BACKGROUND

POLITICAL STRUCTURE

As recognised by the statement at the time of ratification, Australia has a federal system of government. The Australian Constitution confers on the Federal Parliament power to make laws in specified areas. The State Parliaments exercise the residual powers and, in some cases, may exercise, concurrently with the Federal Government, some of the powers specifically given to the Federal Government by the Constitution. In the event of inconsistency between State and Federal legislation in an area in which both jurisdictions may validly enact legislation, the Federal legislation will prevail.

There are six States in the Australian Federation: New South Wales, Victoria, Queensland, Western Australia, South Australia, and Tasmania. Under the Northern Territory (Self-Government) Act and associated legislation, the Northern Territory has been established with separate political, representative and administrative institutions, with its own powers to levy taxation and with its own system of courts. Accordingly, the Northern Territory is, for the purposes of the Convention and this Report, to be treated as a separate entity, akin to a State.

Australia also has a number of Federal Territories and the Australian Constitution gives the Federal Parliament power to make laws for these. The Territories include the Australian Capital Territory on mainland Australia and four inhabited Territories external to the mainland - the Australian Antarctic Territory, Norfolk Island, Christmas Island and the Cocos (Keeling) Islands.

In the Australian system of government, the legislative, executive and judicial powers of the Federal Government are separately exercised by the Parliament, the Executive and the Judiciary. The structure of the State political units is also based on the Westminster system of Government. In each unit there is an elected Parliament, an executive responsible to Parliament formed by the majority party or parties in Parliament, and an independent judiciary.

Article 24 of the Convention requires States Parties to adopt all necessary measures at the national level aimed at achieving the full realisation of the rights recognised in the present Convention. In the Australian federal system each jurisdiction has legislative, executive and judicial powers and responsibilities which can be, and are, exercised in different ways. This will be dealt with at different points throughout the Report.

Whilst ratification of treaties is a matter for decision by the Federal Government, it is the policy of the Federal Government to consult with State Governments on the terms of treaties affecting areas of State Government concern prior to a decision being made on ratification. This process was undertaken prior to ratification of the Convention. The consultation process gives the States the opportunity to give detailed consideration to the requirements of a treaty and to assess its impact on laws and practices within their jurisdictions.

GEOGRAPHY AND HISTORICAL BACKGROUND

The five mainland States, New South Wales, Victoria, Queensland, South Australia, Western Australia and two Territories on the island continent of Australia, the island State of Tasmania off the south east corner of the continent and the small off-shore islands altogether cover a land area of about 7.7 million square kilometres. Most of Australia is arid and the majority of the population is concentrated along the temperate southwest, southeast and east coastal regions where rainfall is adequate. Australia has a high level of urbanisation and of the total population of well over fifteen million people nearly 70% live in the State capitals and other major cities. The most populated States are New South Wales (5,360,300) and Victoria (4,037,600). The Federal Government is based in the national capital city, Canberra, in the Australian Capital Territory, located inland between Sydney and Melbourne, the capital cities of New South Wales and Victoria.

The large land mass of Australia creates particular problems with transportation and communication. Many of the remote areas have difficult living conditions. Some compensations are provided by special arrangements for the provision of education, communication, medical and other services in remote regions. The particular experiences of women in these areas are dealt with under Article 14 in Part II of this Report.

Australia was claimed as a British colony on 26 January 1788 when Governor Arthur Phillip landed with a party of convict prisoners, sailors and soldiers. The colonial settlement during the early years has been described as 'in substance an open-air prison' with government by naval or military officers. A small number of free settlers also came out during the early period; from 1840 free migration was being encouraged by colonial and imperial governments and convict transportation ceased altogether in 1868. Although there were significant groups of Greek, German and Italian born amongst migrants at various periods, until the end of World War II white Australian society remained predominantly Anglo-Celtic.

ABORIGINAL AUSTRALIANS

The continent of Australia has been settled for at least 40,000 years by the indigenous peoples now called Aboriginals. For much of this time the island continent was isolated following the rising of the seas at the end of the ice age and the different groups developed a materially simple but highly complex culture. It has been estimated that at the start of the colonial period (in the 18th century) there was a population of at least 300,000, widely dispersed into 500 linguistic and territorial groups. The impact of British settlers from the end of the 18th century was disastrous for traditional Aboriginal society. After a century most of the languages had been lost for all time and the population had dwindled to about 60,000. Although the official policy of the first settlers was to establish peaceful relationships with Aboriginal inhabitants of the colony, many Aboriginals gradually fell victim to violent confrontations with the settlers and to imported and alcohol-related diseases.

The colonists arrived in an era of social values and international perspectives very different from those of today. With few exceptions they regarded the Aboriginals as primitive people with no attachment to the land because they had not settled it in the European sense.

By the end of the 19th century, special reserves, some run by mission organisations, were set up in attempts to both protect and segregate the Aboriginals. Their numbers continued to decline during the 1920's and 1930's and governments were urged to take more positive action. On the assumption that the Australian European way of life was the most desirable one, a policy of assimilation was adopted, particularly for those of mixed descent who came to be a major group in the Aboriginal community.

In the 1960's the restrictive legislation of the protection era was gradually removed. Legislation began to be changed to ensure that Aboriginals had the same rights as other Australians, and the assimilation policy came under increasing criticism because it ignored the right of Aboriginals to choose their own ways of life. Since the early 1970's government policy has been based on the right of Aboriginals to determine their own future. The Federal Government has had power to legislate with respect to Aboriginals - a field in which

State Governments formerly had sole responsibility - since a referendum in 1967 amended the Australian Constitution.

By the 1950's the population decline amongst the Aboriginal community had been reversed. The 1981 census showed that there were about 160,000 Aboriginals and Torres Strait Islanders, forming approximately 1% of the total population.

THE ROLE AND STATUS OF ABORIGINAL WOMEN

The role and status of women and men in traditional Aboriginal society were well defined and complementary. They had clear roles and duties which, although defined by sex, were equally important.

Misconceptions about the role and status of Aboriginal women would seem to be based not only on the assumption that a western model of male/female relationships is applicable, but also on the assumption that only males hold formal authority in the social structure. Attempts to make Aboriginals conform to the western European model, both consciously and unconsciously, have resulted in a significant loss of status for Aboriginal women in most situations in which they find themselves today. The exclusion of women from decision-making has been reinforced by governments' self-management policies and programs. Administration of the programs requires consultation and contact with Government officials, the majority of whom are male. Aboriginal women traditionally do not discuss business matters relating to women with men. As a result Aboriginal men strengthen their experience and skills in consulting and negotiating with officials while Aboriginal women do not. As a result the views of Aboriginal women have not been fully considered in the development of policies and programs.

One effect of lack of consultation with women has been that women's role as traditional owners and custodians of land and sacred sites has not always been taken into account in the preparation of land claims under States' land rights legislation. The usual practice has been that land claims have been researched and presented by men and so women's roles were overlooked.

Such actions have devalued women's role as traditional owners and women are now voicing their opinions on land rights. As a result female anthropologists are now engaged by the land councils to work with women on the preparation of their land claims. Women, however, have not been successful in gaining membership of the land councils, with one or two exceptions. The women of Central Australia have recently established a women's committee to help offset their lack of representation on the Central Land Council.

The present economic situation of Aboriginal women today is a direct result of colonisation which deprived them of their economic functions and independence and denied them access to the new economic order. The economic status of Aboriginal women is considerably lower than that of most groups within the Australian population. Information derived from the 1981 Census shows that the median annual family income for Aboriginal and Torres Strait Islanders is only 55% of the family income for all persons. The median annual income for Aboriginal women is significantly lower than that for Aboriginal men.

IMMIGRATION

Immigration has been a major feature of Australian history since the beginning of European settlement in 1788. Following the second world war, the Australian Government launched a vigorous immigration program. Between 1946 and 1983 around 40% of population growth was due to net immigration. The numbers fluctuated during the 1970's, with 155,525 arriving in 1971, falling to 54,117 in 1975, and rising later in the decade with a peak of 118,000 in 1981-82; the latest figure, for the financial year 1983-84, gives 69,805 settler arrivals. The source of migrants changed during the period; although settlers from the United Kingdom and the Republic of Ireland have traditionally dominated the movement, together with settlers from continental Europe, the overall proportions coming from these sources have declined since the early 1970's. The proportion of settlers coming from the Middle East and countries in South East Asia and Oceania has increased.

MIGRANT WOMEN

At the 1981 census some 21% of Australian women were recorded as born overseas; 12% were born in non-English speaking countries. Further, fully 34% of all Australian women had mothers who were born overseas and 20% had mothers who were born in non-English speaking countries.

Many women, especially those from Southern Europe, the Middle East, South-East Asia and South America, have been particularly disadvantaged. As migrants they are often exposed to the prejudices of the receiving society. As women they are also subject to the inequalities and discrimination suffered by women in many contexts. To compound their problems, their status as women in their own societies may conflict significantly with the status and roles expected of them in their new society, magnifying their difficulties in settling in Australia.

Women who do not speak English are especially disadvantaged and women are less likely to speak English than men from the same ethnic group. This is because they are less likely to have had access to further education than men; they have fewer opportunities to go out into the broader community and learn English; if they are in the paid workforce, the double burden of their paid work and their housework leaves no time or energy for English classes. Women who stay at home are often cut off from the broader community by cultural traditions as to appropriate roles for women and by the social structure of the host society. As a consequence, a lack of English fluency and an inability to communicate on day-to-day issues in the general community contribute substantially to the difficulties many migrant women experience in adapting to life in Australia. Consultations with migrant women have shown that the consequences of this lack of English include: personal loneliness and isolation; limited employment opportunities; exploitation in the workplace; difficulties in adapting family life to Australian conditions; cross-cultural conflicts for children; inability of mothers to help their children at school; limited access to community resources such as medical services; inability to cope autonomously, and leaving women vulnerable to crises when separated from their spouses and their children especially in middle age and widowhood. These problems are exacerbated for migrant women in rural areas because of limited community resources, restricted access to essential services and physical isolation.

If women do not learn English during their first years in Australia they are unlikely to do so later. There are now numbers of aged women who came to Australia thirty or forty years ago and who have never learnt English. Many were married to husbands who were significantly older than them. As widows they are inevitably heavily dependent upon their families for assistance in daily living.

Although government has become increasingly willing to provide special services to meet the needs of people from non-English speaking backgrounds (as the follow up to the Galbally Report of the Review of Post-arrival Programs and Services for Migrants, 1978 has shown) many problems still remain. There have been few programs specifically aimed at meeting the needs of migrant women, and the sheer diversity of groups involved vastly complicates the task of providing special services. Women from non-English speaking backgrounds clearly share many interests and problems in common with women from English speaking backgrounds but there are also divergences. The core Anglo-Celtic culture in Australia is strongly individualistic whilst many of the more recently arrived ethnic groups place a much greater stress upon family values. Thus the implications of equality and autonomy for women are rather different for these two cultural types. It is also true that whilst some migrants have come to Australia in a spirit of protest against the cultures they have left behind, many more still deeply cherish the cultures of their mother communities. Further, it may be the case that the cultures which are being cherished in Australia have already changed in a natural reaction to altered conditions in the home country. Thus in Australia the older form of the culture is being preserved in a 'purer' or even 'fossilised' form. For example, daughters in Australia may be required to have chaperones just as their mothers did when young whilst the younger generation of cousins who stayed in the home country now go out unaccompanied without comment. Many young women face a conflict of values between the expectations of their parents and relatives and the expectations of their peers at school and work and the host culture at large. This conflict is often the more bitter because neither side has fully articulated the justifications for its viewpoint.

ECONOMIC STRUCTURE

Under the Federal Constitution, the Commonwealth Government has exclusive powers to impose customs and excise duties, which were a major source of revenue at the time of establishment. Both Commonwealth and State Governments were given powers to introduce all forms of taxation, including income tax, and also borrowing powers.

During World War II the Commonwealth Government acquired the sole right to tax incomes; in return monetary grants were made to the States to replace the lost revenue. Although the monopoly was lifted in 1959, States have not resumed their own taxes on incomes. About sixty per cent of their total annual receipts still comes from Federal Government grants.

Most of the powers relating to social administration, in fields such as health, education, housing, corrective services, and welfare services, were allocated to the States in the Constitution at Federation. Originally the Federal Government had only two powers in the broad social welfare area, relating to quarantine and income security, namely invalid and old-age pensions. Since that time, however, the Federal Government has increased its activities in this area, mainly through the use of financial assistance for specific purposes. One specific power which was given to the Commonwealth by a constitutional amendment in 1946 covered the provision of 'maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services .... benefits to students and family allowances'. Thus income security matters are by and large the responsibility of the Commonwealth. The Commonwealth also has an increasingly significant role in the provision of financial subsidies. Service provision, on the other hand, rests with the individual State Governments. The effects of this division will be considered in more detail as they relate to individual articles of the Convention.

POLITICAL PARTIES

At present there are two major forces in Australian politics - the Australian Labor Party (ALP) and the coalition grouping of the Liberal Party and the National Party (formerly National Country Party). These groupings are present at Federal and State level. There have also been a series of minor parties, sometimes break-away sections from the major ones, which on occasion have held the balance of power in the upper houses of the parliaments, thus to some extent controlling the passage of contentious legislation. Support for the principles of equality between men and women and of elimination of discrimination is essentially bipartisan. Both major political parties when in government have supported the Convention; and Liberal-National Coalition Government signed the Convention at the Mid Decade conference in 1980, and the Australian Labor Party Government ratified the Convention in 1983.

Since coming to office in 1983 the Australian Labor Party Government has implemented a number of key proposals relating to women, including the up-grading of women's affairs, the introduction of sex discrimination legislation and the ratification of the UN Convention.

The Liberal Party platform in 1982 recognised that 'certain matters specifically relating to women ... call for continued action, including equality of opportunity and freedom of choice, and the removal of remaining areas of discrimination against women.'

Although relatively small in numbers, the Australian Democrat Party, with seven seats, holds the balance of power in the Senate in the Federal Parliament. There are no Democrats in the House of Representatives. Their "Issue Paper on Women" stresses the need for changes in legislation, procedures and attitudes to create equality of opportunity, with equal rights and responsibilities for women and for men. It also advocates that women should have the opportunity to participate in the decision-making processes at all levels.

LEGAL/ADMINISTRATIVE FRAMEWORK

In Australia, international treaties are not 'self-executing', ie the provisions of treaties to which Australia has become a party do not become part of domestic law by virtue only of the formal acceptance of the treaty by Australia. Thus, the provisions of the Convention which are not already part of Australian law require legislative implementation before becoming part of domestic Australian law. However some of the requirements of the Convention may be implemented by administrative means unless this would be contrary to existing law.

Many of the matters dealt with in the Convention are matters within the responsibility of State Governments as well as the Federal Government. Accordingly, the process of ratification of the Convention was preceded by extensive consultations between the Federal and State Governments in Meetings of Ministers on Human Rights. This forum was established to bring together the Federal and State Ministers whose portfolios carry major responsibilities for Human Rights, currently the Attorneys-General.

There are two particularly significant pieces of legislation passed by the Federal Parliament concerned with the elimination of discrimination against women. In 1981, the Human Rights Commission Act 1981 established a Human Rights Commission with jurisdiction to review legislation and practices in areas of federal jurisdiction (including in the Australian Capital Territory). The Commission's charter is to inquire into acts or practices which may be inconsistent with human rights recognized in the International Covenant on Civil and Political Rights, the United Nations Declarations of the Rights of the Child, the Rights of Mentally Retarded Persons and the Rights of Disabled Persons. The Commission is also given functions under the Racial Discrimination Act 1975. The Federal Government has announced its intention to establish a new Human Rights and Equal Opportunity Commission to replace the existing Human Rights Commission.

In March 1984, the Federal Parliament passed the Sex Discrimination Act. The Act came into operation throughout Australia on 1 August 1984.

The Sex Discrimination Act proscribes discrimination on the ground of sex, marital status or pregnancy in the areas of employment, education, accommodation, the provision of goods, facilities and services, the disposal of land, the activities of certain clubs and the way in which federal laws and programs are administered. The Sex Discrimination Act 1984 also contains provisions prohibiting discrimination involving sexual harassment in employment and education. The emphasis in the legislation is on conciliation as the means of dealing with complaints and it is only when conciliation is unsuccessful that further more formal action may be taken.

The Sex Discrimination Act expressly provides that one of its objects is to give effect to certain provisions of the Convention. It provides a mechanism for individuals and groups to seek legal redress for discriminatory practices. In keeping with the requirements of the Convention, the Act also contains as one of its objects 'to promote recognition and acceptance within the community of the principle of equality of men and women'.

Complaints of discrimination may be made to the Human Rights Commission. Initial investigation and conciliation are undertaken by the Sex Discrimination Commissioner. Where conciliation is unsuccessful the complaint is referred for a separate inquiry by the Commission.

If a complaint is sustained the Human Rights Commission may determine that complainants be awarded monetary damages or given other remedies appropriate to their situation. Such a determination is not binding but may be enforced in the Federal Court of Australia.

Prior to the introduction of the Federal Sex Discrimination Act a number of States had enacted anti-discrimination legislation. As it was the intention of the Federal Government to co-operate with the States in attempts to overcome discrimination, the new Federal law expressly provided that State laws with the same general purpose could operate concurrently.

Four States now have comparable anti-discrimination legislation. These are:

South Australia - Sex Discrimination Act 1975

New South Wales - Anti-Discrimination Act 1977

Victoria - Equal Opportunity Act 1984

Western Australia - Equal Opportunity Act 1984.

The South Australian Act has been reviewed and redrafted to include sexual harassment and to complement the Federal Sex Discrimination Act. The new Equal Opportunity Act will repeal the Sex Discrimination Act 1975 the Handicapped Persons Equal Opportunity Act 1981 and the Racial Discrimination Act 1976 and deal with various grounds of discrimination in one consolidated statute. The Act was passed by the South

Australian Parliament in December 1984 but has not been proclaimed and brought into operation.

In New South Wales the Anti-Discrimination Act 1977 was amended in 1980 to direct State Government departments to promote equal employment opportunity through affirmative action for women and designated minority groups.

In Victoria the Equal Opportunity Act 1984 came into effect on 1 August 1984. It repealed the Equal Opportunity Act 1977 and the Equal Opportunity (Discrimination Against Disabled Persons) Act 1982 and extended the grounds of discrimination covered in those Acts to include race and religious and political opinion and activity.

The Western Australian Equal Opportunity Act 1984 commenced operation on 8 July 1985.

State and Federal laws follow the same model of complaint handling. Written complaints are made to an agency that investigates and attempts to conciliate the matters in dispute. Under co-operative arrangements between the State and Federal Governments, the State bodies also act as agents for the Human Rights Commission.

MEASURES TO IMPLEMENT CONVENTION

The major action taken to implement the Convention since ratification in mid 1983 is the enactment of the Sex Discrimination Act described above. The full text of the Convention is a Schedule to the Act.

Progress towards full realization of the rights set out in the Convention is monitored by the Office of the Status of Women and the equivalent bodies in State Governments and other Commonwealth departments. A description of the Federal and State government machinery established to advise on and monitor matters relating to the status of women is set out below.

As already noted, under the federal system of government in Australia both Federal and State Governments have authority over matters relating to the status of women. The following sections cover, first, the Commonwealth responsibilities and agencies relating to this area and second, the State Government bodies.

A. Federal Machinery

At the political level, in April 1983 the new Federal Labor Government returned the responsibility for women's affairs to the Prime Minister. Another Cabinet Minister, the Minister for Education, who is a woman, was appointed as Minister Assisting the Prime Minister on the Status of Women. From 1979 until 1983, women's affairs had been the responsibility of the Minister for Home Affairs and Environment, who was not a member of Cabinet. The new administrative arrangements fulfilled pre-election commitments in the ALP Platform.

With the change in ministerial responsibility, the Office of the Status of Women returned to the Department of the Prime Minister and Cabinet, the central policy co-ordinating department within the Government. The Office was upgraded to divisional status, and the staffing establishment increased. In administrative terms the new arrangements give considerable status and authority to the functions of the Office. The Government has also established a Task Force on the Status of Women, consisting of the Secretaries (Departmental Heads) of key Commonwealth Government departments and chaired by the Secretary of the Department of the Prime Minister and Cabinet. Its main task is to ensure that women's interests and needs become an integral part of the planning and implementation of all government policies and programs at the most senior advisory level.

The Office of the Status of Women (OSW) is the chief federal source of policy development and advice on matters related to women. It has the responsibility to advise the Prime Minister and Cabinet on the impact of Government policies and programs on the status of women, and to co-ordinate and develop policies relating to women.

The Office also has a number of consultation and information functions.

- Shopfront information services are available in Brisbane, the State capital of Queensland, and in Hobart, the State capital of Tasmania. These are the only States which do not have a Women's Adviser to their Premier. The services provide a wide range of information and assistance to women in relation to Commonwealth Government programs and policies; in addition OSW receives valuable feedback regarding the opinions and experiences of women in the community.

- A pilot program introduced by the Prime Minister to test the establishment of Affirmative Action for women employed in the private sector and in higher education was supported by a Resource Unit located within the Office.
- In August 1983 a Task Force was established to consult with Aboriginal women, and to report to the Government on critical needs identified during the consultations.
- Assistance to meet administrative costs has been provided to several women's organisations.

In 1978 the National Women's Advisory Council was established to advise the Commonwealth Government (through the Minister responsible for women's affairs) on matters of concern to women, and to act as a channel of communication between women and the Government. Individual members were appointed by the Government for two year terms. The Advisory Council has recently been replaced by the National Women's Consultative Council, with membership from the major women's organisations and other bodies concerned with raising the status of women. The Council has the responsibility of informing the Government of the views of member organisations on policy issues of relevance to women. The Government consults the Council on issues such as matrimonial property and taxation reform which have a major impact on women. The Council receives secretariat support from the Office of the Status of Women.

The Commonwealth Public Service Board is responsible for conditions of employment in the Australian Public Service. The Equal Employment Opportunity Bureau of the Board develops, advises on and implements policy relating to women and groups designated as disadvantaged within the Public Service: Aborigines, people with physical disabilities and migrants. In 1981 the Board introduced a voluntary EEO Program for Women in an attempt to overcome systemic discrimination in the Public Service. The EEO program had two goals: (1) to increase the numbers of women in senior management and (2) to increase the number of women in jobs not traditionally done by women eg. as skilled crafts workers. Because the scheme was voluntary, departments varied widely in their active support.

Under the Public Service Reform Act 1984, Commonwealth Government departments now have a positive obligation to develop, review and report on such programs. The Board will continue its advisory role, but will also have the responsibility for reviewing program effectiveness and reporting to the Prime Minister on the progress made in departmental EEO programs.

There has been a Women's Bureau within the Commonwealth Department of Employment and Industrial Relations since 1963. The Bureau provides policy advice to the Minister for Employment on matters relating to women's employment, and undertakes research and information programs.

A number of other Commonwealth Government departments previously had units concerned with policies related to women, but nearly all except the Women's Bureau were abolished following a Review of Commonwealth Functions in 1981. However, the Department of Health maintained the position of Adviser on women's health and family planning and the Australian Development Assistance Bureau retained an Adviser on Women in Development. The present Government has directed all departments to establish women's units or similar mechanisms in order to promote the Government's policies on the Status of Women more effectively. Each department is also required to include in its annual report a section on the activities of these units or mechanisms.

Recent developments relating to Commonwealth responsibilities in education include:

- the re-establishment of a Women's Unit in the Department of Education, with responsibility for ensuring that the particular needs of women and girls are recognised in policies and programs administered by the Department;
- the establishment of an Education of Girls Unit in the Commonwealth Schools Commission, to provide policy advice to the Commission regarding the educational needs of girls in primary and secondary schools, to administer the Education of Girls element of the Projects of National Significance Program, and to monitor the impact of all Commission programs on girls;
- the establishment of an Equity Unit in the Commonwealth Tertiary Education Commission, to provide support, policy development and monitoring of activities in the area of improving access to tertiary education by disadvantaged groups.

In 1983 the Department of Immigration and Ethnic Affairs appointed a Migrant Women's Co-ordinator, now Director of the Women's Desk, to stimulate action on issues concerning migrant women mainly through information and consultation services with a wide range of organisations. In each regional office of the Department (located in the State capitals) a Migrant Women's Co-ordinator has been identified, with the responsibility for informing and advising migrant women on the services available in the community and government, identifying areas of need, and supporting local initiatives by and for migrant women.

The Department of Aboriginal Affairs has an Aboriginal Women's Unit, part of which is based in the main office in Canberra; the other members are placed as information officers working with field officers from the Department's regional and area offices. The main functions of the Unit are to identify the needs and assist in the development of programs for Aboriginal women and children throughout Australia; to provide advice to relevant departments and organisations on matters concerning Aboriginal women and children; and to provide advice to the Department of Aboriginal Affairs on the effectiveness of programs relating to Aboriginal communities.

There is a National Committee on Discrimination in Employment and Occupation and separate State Committees in all States and the Northern Territory. The Committees have conciliation and education functions relating to complaints of employment discrimination. The continuance of these Committees is currently under review, having regard to some of the functions in the field of employment which are being proposed for the new Human Rights and Equal Opportunity Commission. The role of the Human Rights Commission has already been mentioned. As well as the complaint-handling functions under the Sex Discrimination Act and its functions under the Human Rights Commission Act and Racial Discrimination Act, the Commission is given the following major functions under section 48 of the Sex Discrimination Act:

- to promote an understanding and acceptance of, and compliance with, the Act;

- to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects of the Act;

- to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to the objects of the Act, and to report to the Minister the results of any such examination;

- to grant exemptions from the operation of specified provisions of the Act.
- on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to discrimination on the ground of sex, marital status or pregnancy or to discrimination involving sexual harassment.

B. State Government Machinery

The State Governments in New South Wales, Victoria, South Australia and Western Australia have established women's units attached to the Premier's Department in each State. All undertake an advisory and co-ordinating role regarding State government policies and programs.

In the Northern Territory the position of Ministerial Assistant for Women's Affairs and Equal Opportunity and the Division of Women's Affairs, established originally in the Chief Minister's Department, were moved to the Department of Community Development in December 1984.

A women's adviser for the Australian Capital Territory (ACT) was appointed in 1985.

The State Advisers on Women's Affairs and the senior officers of the Office of the Status of Women meet four times a year to exchange information, discuss matters of mutual interest, co-ordinate Commonwealth and State Government policies in relation to women and identify gaps in existing policy. Observers from the States without Women's Advisers attend the meetings.

In Victoria and South Australia there are telephone advisory and information services for women. In New South Wales, Victoria, Western Australia and the Northern Territory, Women's Advisory Councils have been established. These serve as channels of communication with women in the community.

Special bodies have been set up in New South Wales, Victoria, South Australia and Western Australia to administer State anti-discrimination laws. The general functions of these bodies include, investigation of complaints, community education and research. Under co-operative arrangements between State and Federal authorities, State anti-discrimination bodies now act as agents for the Human Rights Commission and exercise delegated authority to administer the Sex Discrimination Act, the Racial Discrimination Act and the Human Rights Commission Act. Individuals who wish to make a complaint of sex or race discrimination under the Federal legislation can make the complaint to the State body.

Technical and Further Education (TAFE) is a State responsibility and States have appointed TAFE women's advisers. Each State sends a member to the Working Party of Women's Advisers in TAFE which meets twice yearly to promote the development of programs to make TAFE more relevant to the needs of women and girls.

All State Departments of Education (except for Tasmania) have equal opportunity units. The Tasmanian Department has a policy on equal opportunity and the elimination of sexism in schools which was gazetted in 1979. In South Australia a Women's Agricultural Bureau has been established and women's advisers appointed to the Department of Labour and the State Health Commission. The Western Australian Government has issued a policy statement supporting equal opportunity in government employment; EEO programs have been initiated in a number of the State Government departments and statutory bodies. The Northern Territory Housing Commission has a women officer dealing specifically with problems that women experience in finding accommodation.

REMEDIES FOR ACTS OF DISCRIMINATION

Complaints of discrimination may be made to the Human Rights Commission or to the State anti-discrimination bodies (for acts occurring in those States).

Under the Commonwealth Sex Discrimination Act, when a complaint is made to the Human Rights Commission, the Commission is required by section 52 to refer the matter to the Sex Discrimination Commissioner who is empowered to inquire into the complaint and to endeavour, by conciliation, to effect a settlement. However, where attempts to conciliatehave been unsuccessful, the matter is referred to the Human Rights Commission for investigation. The Human Rights Commission may also make a determination, which is enforceable by proceedings brought in the Federal Court of Australia.

In the area of employment, complaints may also be made to the National or State Committees on Discrimination in Employment and Occupation. These bodies are not established by statute but were set up following Australia's ratification of the ILO Convention No 111 - Discrimination (Employment and Occupation). The Committees consider complaints of discrimination in employment on various grounds including grounds not already covered by law and attempt to achieve settlement of these complaints by conciliation. No coercive remedies are available to complainants in the event a complaint is not settled although the Committees can report such complaints to the Minister who can then table the report in Federal Parliament. Since the Sex Discrimination Act came into operation the Committees no longer take complaints on the grounds of sex or marital status covered by that statute.

There are other mechanisms for seeking review of actions taken by governments at different levels, which can be used by members of the community. These include Commonwealth and State Ombudsmen, and the Commonwealth Administrative Appeals Tribunal.

ROLE OF THE COURTS

As already mentioned, in Australia treaties are not self-executing. The provisions of the Convention cannot be invoked to assist parties in proceedings before a court until legislation enforcing the provisions has been enacted.

A brief outline of the procedures under the Sex Discrimination Act and State anti-discrimination legislation has been set out above. Whilst these statutes enable eventual action before a court or tribunal in a situation where complaints of discrimination are unable to be resolved, the legislation proceeds on the basis that discrimination is a matter best dealt with in the first instance by a process of conciliation.

Conciliation can be an effective form of education for the parties involved in a complaint, can assist the offending party to appreciate the nature of his or her actions and draw attention to those aspects of his or her behaviour which are unlawful or unacceptable.

Recourse to court-enforced sanctions has been a last resort, although it is acknowledged that there is also educative value in the existence of such sanctions. An early test case of discrimination law in Australia occurred in 1978 when Deborah Wardley lodged a complaint of sex discrimination against Ansett Transport Industries (Operations) Pty. Ltd. after trying unsuccessfully to become a trainee pilot. During a selection interview the question of possible pregnancy was discussed. Ms Wardley informed the selection panel that she was engaged to be married and would like to have children, but would maintain her profession in any case. In later rejecting her application some members of the interview panel were influenced by the prospect that Ms Wardley could be absent in the early years of her flying career due to pregnancy.

The matter went before the Equal Opportunity Board in Victoria and resulted in a ruling that the airline had discriminated against the complainant when it had rejected her application, because of their concern about possible pregnancy.

The airline was ordered to pay the complainant damages and to hire her in the next intake of trainee pilots. An appeal by the airline in the High Court against this decision was unsuccessful.

PART II INDIVIDUAL ARTICLES OF THE CONVENTION

Article 1

> For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The definition in Article 1 of the Convention is reflected in the definitions of discrimination on the ground of sex included in Federal and State anti-discrimination legislation. (see Sex Discrimination Act 1984 (Cth), s.5; Anti-Discrimination Act 1977 (NSW), s.24; Equal Opportunity Act 1984 (Vic), ss 17 and 18; Equal Opportunity Act (WA), s.8; Sex Discrimination Act 1975 (SA), s.16).

The essence of discrimination under Australian anti-discrimination legislation is that a person is treated less favourably than a person of the opposite sex is or would be treated in similar circumstances. It is also recognised that discrimination may be indirect.

Section 5(2) of the Federal Sex Discrimination Act 1984 provides:

> For the purposes of this Act, a person discriminates against another person on the ground of the sex of the aggrieved person if the discriminator requires the aggrieved person to comply with a requirement or condition -
>
> (a) with which a substantially higher proportion of persons of the opposite sex to the aggrieved person comply or are able to comply;
>
> (b) which is not reasonable having regard to the circumstances of the case; and
>
> (c) with which the aggrieved person does not or is not able to comply.

It can be argued that requirements such as employment criteria which do not directly refer to gender are neutral and non-discriminatory. In fact, certain criteria, for example related to the person's height, weight or particular work experience, can be discriminatory because one sex is much more likely to satisfy the criterion than the other. In a few situations it could be argued that it is reasonable to require candidates to fulfil discriminatory requirements. The Act allows for activities such as providing personal services, for example measuring for garment fitting or taking part in a dramatic performance, to be exempted. However this provision is applicable only in certain situations. In general indirect discrimination is unlawful.

As the Convention is directed to eliminating discrimination against women, it is not regarded as necessarily inconsistent with the Convention if in some areas the position of women has been and continues to be more favourable than that of men. Section 33 of the Federal Sex Discrimination Act exempts from its operation acts which have a purpose of ensuring that persons of a particular sex, marital status or persons who are pregnant have equal opportunities with other persons. Discrimination against a man on the ground of his sex by reason of the granting to a woman of rights or privileges in connection with pregnancy or childbirth is also exempted from the operation of the Act.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 2 (a)

To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle:

The Australian Federal Constitution does not include any specific reference to equal rights for men and women. However, neither the Australian Federal Constitution nor the Constitutions of each of the six States embody discriminatory principles or require the making of discriminatory laws or the implementation of discriminatory practices.

Section 3 of the Federal Sex Discrimination Act 1984 provides:

> 3. The objects of this Act are -
>
> (a) to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women;
>
> (b) to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status or pregnancy in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs;
>
> (c) to eliminate, so far as is possible, discrimination involving sexual harassment in the workplace and in educational institutions; and
>
> (d) to promote recognition and acceptance within the community of the principle of the equality of men and women.

Thus the Sex Discrimination Act and other measures mentioned in Part 1 of this Report are designed to ensure practical realisation of this principle.

Article 2 (b)

> To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women:

The main Federal and State Acts have already been mentioned. Particular aspects of other legislation and other measures designed to ensure remedies for acts of discrimination are considered in later sections, in relation to specific Articles of the Convention.

Article 2 (c)

> To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other

> public institutions the effective protection of women against any act of discrimination:

Historically there were provisions in Australian law which discriminated against women. Examples of such discrimination were the denial of voting rights to women, restriction on married women's rights to public service employment, constraints on married women's property rights and payment of lesser wages to women than to men for work of equal value.

Reforms in Australian law have meant that such discrimination has largely disappeared. However there are still some pieces of legislation which provide for different treatment for men and women, although, of course, not all such legislation discriminates against women. For example, as a consequence of earlier social patterns access to the old-age pension is available to women from the age of 60 years and to men from the age of 65 years.

Section 40 of the Federal Sex Discrimination Act exempts from the coverage of that Act -

> 'anything done by a person in direct compliance with -
>
> (a) any other Act, any State Act, or any law of a Territory, in force at the commencement of this Act;
>
> (b) a regulation, rule, by-law, determination or direction in force at the commencement of this Act made under an Act, State Act or law of a Territory;
>
> (c) a determination or decision of the Commission;
>
> (d) an order of a court; or
>
> (e) an order or award of a court or tribunal having power to fix minimum wages and other terms and conditions of employment.'

However, Section 40 further provides that, except in respect of a small number of statutes including certain social welfare legislation, the exemption for Federal State or Territory legislation ceases after two years from the commencement of the Act unless regulations are made to extend that period of time. The purpose of this is to require all jurisdictions to review legislation which might contain provisions inconsistent with the Sex Discrimination Act. In the event that legislation is identified which cannot be amended for particular reasons before the expiry of the two year period, or which is determined as legislation which should not be amended, then the regulations can preserve the operation of that legislation for a further period of time.

The Sex Discrimination Act also provides for a number of specific exemptions. Many of these are also contained in the State legislation. The aim of these exemptions is to ensure that those acts of discrimination which are justifiable or reasonable are not made unlawful. A number of the exemptions were also included as recognition of other competing human rights.

The Commonwealth Act provides for 27 areas of exemption. Examples include admission to single sex educational institutions or clubs; practices of religious bodies following their religious beliefs and the employment of women in combat and combat-related duties in the Defence Forces. As already mentioned, Defence Force combat duties are also the subject of a Reservation to the instrument of ratification.

Provision is also made in section 44 for applications to be made to the Commission for short-term renewable exemptions from the operation of a specified provision of the Act. The machinery for enforcement of the provisions of the Sex Discrimination Act is described in Part 1 of this Report.

Article 2 (d)

> To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation:

Section 26 of the Sex Discrimination Act provides:

> (1) It is unlawful for a person who performs any function or exercises any power under a Commonwealth law or for the purposes of a Commonwealth program, or has any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth program, to discriminate against another person, on the ground of the other person's sex, marital status or pregnancy, in the performance of that function, the exercise of that power or the fulfilment of that responsibility.
>
> (2) This section binds the Crown in right of a State.'

One of the roles of the Office of the Status of Women is to monitor government programs to ensure that they are not discriminatory in design or impact.

In 1984 the Commonwealth Government directed all departments to establish women's units or similar mechanisms in order to promote more effectively the Government's policies on the status of women. Each department is also required to include in its annual report a section on the activities of these units or mechanisms.

Article 2 (e) & (f)

(e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

Apart from legislation such as the Sex Discrimination Act, the government has initiated a number of community education programs. The Human Rights Commission has developed an education course on human rights for use in Australian schools which included a section on sexism. The material was developed in response to requests from teachers and is designed for use in senior primary and junior secondary classes.

The Human Rights Commission is currently conducting an inquiry into sub-section 41(1) and (4) of the Sex Discrimination Act 1984 relating to superannuation, insurance and other similar matters.

Section 37 of the Federal Sex Discrimination Act 1984 contains an exemption relating to religious bodies. This provision includes an exemption in relation to any act or practice of a body established for religious purposes which conforms to the doctrines, tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.

Article 2 (g)

> To repeal all national penal provisions which constitute discrimination against women:

A major area of concern has been sexual offences and prostitution legislation. Prostitution is dealt with later in this report. Sexual offences legislation is being and has been reviewed to make the legislation gender neutral.

All Commonwealth Government departments have been directed to conduct a review of legislation related to departmental functions to identify and eliminate discriminatory provisions.

Article 3

> States Parties shall take in all fields, in particular in the political, social economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Australia is a party to a number of other international instruments of relevance to this question including:

International Covenant on Civil and Political Rights, 1976

International Covenant on Economic, Social and Cultural Rights, 1976

ILO Convention on the Political Rights of Women, 1954.

Convention against Discrimination in Education, 1962.

Declaration of the Rights of the Child, 1959.

Specific legislative and administrative programs are discussed under other Articles in this Part.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

The major area where women still experience considerable discrimination is that of paid employment. Despite recent legal and social changes in Australia, compared with men, women earn lower wages, work in the lower ranks of most occupational groups, and have less of the qualifications and training which could open up a wider variety of jobs and careers for them.

The Federal Government is committed to the encouragement of policies which given women who wish to enter the labour force the opportunity to participate fully in employment. Whilst the Government has expressed its opposition to discrimination in employment (as in other areas) by enacting the Sex Discrimination Act 1984, it recognises that this is not enough. Anti-discrimination policies, although vital, cannot by themselves improve women's position in the labour market, fully open up a greater range of jobs to women, nor ensure that women can compete on equal terms with men for promotion. Extra measures are required to enable women who for so long have been concentrated at the bottom of the heap to improve their job prospects. Therefore the Government is encouraging employers who employ large numbers of workers to adopt affirmative action programs to ensure that women's concentration in low-paid, low-status occupations is reduced and that women are able to achieve a more balanced representation across occupations. The Australian Labor Party's Policy Platform spelt out the Government's commitment 'to take all legislative and administrative steps including the introduction of affirmative action programs' to ensure that the problems and disadvantages faced by women are overcome.

In its policy discussion paper on Affirmative Action for Women the Government has recognised that this is a relatively new concept for Australia and certainly one which needs to be adapted to local business and industrial relations traditions. Affirmative Action is defined to be a systematic means, determined by the employer in consultation with senior management, employees and unions, of achieving equal employment opportunity for women. It is made clear that Affirmative Action is compatible with appointment and promotion on the basis of the principle of merit, skills and qualifications. It does not mean that women will be given preference over better qualified men nor that quotas will be imposed.

Although employers are expected to design their own Affirmative Action programs appropriate to the industrial setting, such program should include in some form the following four procedures:

1. A workforce analysis to identify where women are concentrated or under-represented and to examine the sex differentials in the impact of recruitment, training, promotion and retrenchment policies.

2. The nomination of a senior executive responsible for developing strategies to improve women's representation.

3. The setting of internally agreed upon goals or targets expressed in numerical or proportional terms.

4. The establishment of an evaluation and monitoring mechanism to assess progress.

In June 1984 the Government established a pilot program with the collaboration of twenty-eight major business enterprises and three higher education institutions. Through the pilot program, the working of affirmative action in practice was examined in detail. The companies involved covered every sector of private employment and provided a cross section of commercial activities and a wide variety of occupations performed by their employees. Thus the policy of affirmative action was thoroughly tested prior to the Federal Government considering legislative options. Participants in this program received advice from a special Affirmative Action Resource Unit established in the Office of the Status of Women.

The Government also established a Working Party on Affirmative Action Legislation. Membership of the Working Party includes three Ministers, a representative of the Opposition politicial parties, representatives of the business community, the trade unions, higher education management and women's organisations. The

Working Party monitored the progress of the pilot program, and will take account of this in developing recommendations to the Federal Government on the details and content of legislation. The Government's proposal is to legislate for affirmative action for women in higher education and in private sector organisations employing more than 100 people.

Alongside this promotion of affirmative action in the private sector the Government has legislated to provide for mandatory equal employment opportunity programs within the Australian Public Service (Public Service Reform Act 1984). This legislation places a positive obligation on departments to develop, review and report on Equal Employment Opportunity (EEO) Programs for women and designated groups. It is recognised that in organisations the problem lies not only in individual acts of discrimination which may be complained of and corrected, but in a whole series of practices or omissions which add up to a system or structure of discrimination. The purposes of the Departmental EEO Programs are twofold:

1. To eliminate unjustified discrimination against women and people in designated groups. This includes any discrimination that is unlawful under the Racial Discrimination Act 1975 and the Sex Discrimination Act 1984.

2. To take measures to enable women and members of designated groups to compete for promotion and transfer, and pursue careers, as effectively as others.

   EEO measures such as special training courses may help a person prepare to compete for promotion. It is important to realise, however, that promotion is still strictly on the basis of merit.

The Act states that Departmental EEO Programs shall include action to:

- identify and eliminate discriminatory practices and eliminate or ameliorate any patterns of inequality of opportunity;

- inform staff and staff organisations about the EEO Program and results of any reviews;

- collect and record information (including statistics) relevant to the program; and

- compare program results with indicators (targets, etc) to assess program effectiveness.

Article 4.2

> Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Protection of Maternity

Section 31 of the Federal Sex Discrimination Act 1984 specifically exempts measures for the protection of maternity. Thus it is provided that it is not unlawful 'for a person to discriminate against a man on the ground of his sex by reason only of the fact that the first-mentioned person grants to a woman rights or privileges in connection with pregnancy or childbirth'.

In fact, Australian law and practice provides little in the way of special protection for pregnant or lactating women (see Article 11.2(b) concerning discrimination on the grounds of maternity).

Current developments in occupational health and safety are directed towards ensuring that working conditions for all workers do not endanger health. It is, however, the case that within the Australian Public Service pregnant women may be excused from having to work with visual display units because of the possibility that radiation may produce a miscarriage.

The South Australian Government has drafted a 'Radiation, Protection and Control' Bill which would ensure that pregnant women are not subjected to excessive radiation. As a matter of policy, pregnant women working with display terminals in Western Australian State Government departments are permitted to transfer to other duties without loss of entitlements.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

This article is interpreted as imposing an obligation on governments to adopt an educative role in removal of practices based on prejudices and stereotyped assumptions to the extent that these practices have the effect of discriminating against women (Article 1).

One of the major functions of the Human Rights Commission under the Federal Sex Discrimination Act is to undertake research and educational programs which promote the elimination of discrimination on the grounds of sex, marital status or pregnancy.

In Australia, most action to combat stereotyped images of women's and men's roles has been taken within the formal education system (see comments on Article 10 below). However, there have also been some moves to educate the community at large, recognizing that the media is a powerful determinant of attitudes. In 1983 the Office of the Status of Women issued Fair Exposure: Guidelines for the Constructive and Positive Portrayal and Presentation of Women in the Media which offered suggestions for ways in which women could be more realistically presented regarding their lifestyles, opinions, ideas and aspirations.

There is bi-partisan recognition that in the past the media have all too often tended to demean, trivialise or ignore women's individuality, their contribution to social and economic life and their struggle for justice for themselves. A survey of reactions to the portrayal of women in television programs and advertisements showed that 44% of all respondents and 52% of female respondents disapproved of some depictions of women in advertisements and 35% of all respondents and 41% of female respondents sometimes disapproved of the way women were presented in programs (National Television Standards Survey, Australian Broadcasting Tribunal November 1979). A survey of objections to advertising showed that the three major groups of objections were to the use of women as sex objects to sell products; to patronizing advertisements implying women are incompetent, unaware or stupid and that whilst women may be decorative, only men can be credible; and to the stereotyping of women in domestic, passive roles.

In Fair Exposure it is suggested that broadcasting stations, publishers, advertisers and media workers adopt the following principles:

'1. avoid the use of demeaning sexual stereotypes and sexist language;

2. reflect women and their interests in the reporting and discussion of current events;

3. recognise the full participation of women in Australian society;

4. seek women's opinions on the full range of public issues;

5. realistically portray the interests, lifestyles and contribution of women to society;

6. base communication on qualities that are pertinent to the story;

7. ensure that women working in the media are given every opportunity to participate in all aspects of decision-making and production relating to material or programs developed for publication or broadcasting.

In other words write, illustrate, edit and present with a sense of equality, appropriateness and dignity for both sexes.'

The language guidelines stress specific pitfalls such as avoiding the use of male generics and job titles which imply that the holders must be male. Great emphasis is placed upon the fact that words do have a real practical impact especially where they are constantly repeated in a context of occupational or character stereotyping. To assist practical application of the guidelines potential complainants are advised on the appropriate procedure and addresses are provided for the regulatory bodies of the various media industries.

The Australian Government Publishing Service publish a Style Manual for authors, editors and printers of Australian Government publications with the purpose of encouraging consistency of editorial style and ensuring that publications attain a high standard in typographical design and printing. The Style Manual has become a standard work of reference, well received both inside and outside the Public Service. Revisions for the forthcoming fourth edition will include guidelines for the use of non-sexist language in all government publications.

The Australian Broadcasting Corporation, the national public radio and television network, has recently circulated guidelines on non-sexist language drawn up by its Standing Committee on Spoken English. Broadcasters were asked to avoid the use of the generic he, irrelevant gender descriptions, unequal gender descriptions, sexist stereotypes and demeaning language, and terms which seem to include only one sex where the position or quality in question might apply to either sex. Unfortunately there was some very negative reporting and comment on the guidelines, particularly from other media groups.

In common with the English practice, Australian statutory law has taken words importing the masculine gender to include females. This usage was explicitly recognised in the English Acts Interpretation Act 1850, and in general legislation has been framed using masculine terminology or in some cases the more general person. The Commonwealth Acts Interpretation (Amendment) Act 1984 repeals section 23 (which was similar to the English) of the Australian Acts Interpretation Act 1901 and substitutes the ruling that, unless the contrary intention appears, words importing a gender include every other gender.

In 1984 the Federal Government adopted guidelines for a new approach to drafting legislation aimed at eliminating sexist language. The Government accepted that drafting in 'masculine' terms might contribute to the perpetuation of a society in which men and women see women as lesser beings. There were three main elements in the guidelines: the avoidance of personal pronouns (he, she) by repeating the noun, the use of the formula 'he or she' where personal pronouns had to be used, and the avoidance of words ending in 'man' where possible and appropriate. The new approach is operative for the drafting of new principal Acts and new provisions for existing Acts. As resources permit, other Acts will be reviewed and amended as required. The recommended terminology has already been used in drafting the Sex Discrimination Act.

In Victoria the Interpretation of Legislation Act 1984 provides for the masculine or the femine gender to be used in state legislation, with the effect that either gender covers the other. The State Government has also resolved that legislation should be drafted or redrafted without reference to gender. The New South Wales Government intends to adopt gender-neutral drafting for future legislation.

In Australia the stereotype of a woman as a housewife, fully occupied at home with family and housework, is becoming increasingly invalid. As noted elsewhere in this report, at least 40% of married women are now in the work-force at any time. Many have returned because of economic pressures, including the need to support themselves and their children after marital break-up. Recent studies suggest that increasing numbers of women no longer see housework as a lifelong career, although they still expect to spend a period of time exclusively on child rearing and out of the workforce.

In 1980 the New South Wales Women's Advisory Council issued a discussion paper Occupation: Housewife which examines the nature and value of the work performed by housewives together with a range of ways of calculating the money value of housework. It also presents suggestions for housewives who wish to negotiate a new work contract.

As in other industrial developed countries, the question of a housewife's wage has been raised in some circles. The discussion is generally in the context of providing income support to families where the wife wishes to care for their children at home on a full-time basis. It is argued that this choice is often not available because the wife needs to be in paid employment for the economic survival of the family. Some groups put forward the view that home-making, including the care and rearing of children, has been so devalued that women feel ashamed if they are full-time at home and not in paid employment.

Changes to the taxation system have been proposed as ways of providing some form of income support for married women at home. There has been discussion of giving formal recognition to some system of income splitting for married couples; this essentially involves the notional allocation of one income between the two marriage partners for tax assessment, thus doubling the tax-free component and minimising the amount liable for assessment at the highest tax rates. This kind of arrangement is already used quite extensively particularly among non-wage and salary earners.

Other proposals have been to increase the tax rebate payable to tax payers with a dependent spouse or to increase the family allowance payment for dependent children, generally made to the mother.

Most women's organisations now agree that the costs associated with the presence of children are the major economic strain on families, and that women with dependent children should be the target group for the development of policy. In recent years governments have also recognised this thrust by restricting increases in dependent spouse tax rebate to couples with dependent children.

At the same time that housewives are taking issue with their negative stereotype, employed wives find themselves under considerable stress, subject both to relatively low status and high insecurity in the workforce and the major burden of housework and child care at home. In the public area they are attacked both for neglecting their children and for taking jobs that allegedly would otherwise be available to unemployed teenagers. The idea that women have an independent right to employment irrespective of their marital status, age or husband's income is very slow in gaining acceptance. However the communique issued at the conclusion of the National Economic Summit Conference in April 1983 stated that:

> Given the high levels of unemployment the Summit agrees that the basic rights of women should be recognised and protected and that the move towards greater equality and independence for women should be encouraged. There should be equal access to job creation programs, to employment, training, retraining and education and measures designed to break down occupational segregation and discrimination. (para. 43)

Women's employment status is significantly influenced by family responsibilities, particularly the care of dependent children. Changes in the expectation that it is the mother who bears the primary, if not the exclusive, responsibility for child rearing are still slow in developing. An earlier provision that Australian public servants should be entitled to paternity leave in parallel to maternity leave was subsequently withdrawn. In 1985, however, provision was made for either male or female public servants to take parental leave of up to 66 weeks leave without pay at the birth of a baby. In 1981 the International Labour Organization adopted Convention 156 on workers with family responsibilities which implicitly recognises the need for family responsibilities to be shared between men and women as a precondition for equality in the labour force. The Prime Minister announced in 1983 that the Government is committed to ratifying ILO 156.

Another area of sexual stereotyping which is of grave concern to women is the use of images which present women not as individual persons but as sex symbols or sex objects. This is one issue on which almost all women's organizations are united regardless of their place on the political spectrum.

The use of such imagery runs from ugly and tasteless TV advertisements, to girlie magazines, and ultimately to pornography and prostitution. It affects not only the women who are directly involved but also all women whose individual self-image is thereby belittled. Many of these images sell the idea both that women have bodies but not minds or wills or their own, and also that women derive enjoyment from male aggression and violence.

Current controversies over the presentation of women as sexual objects range from attacks upon beauty contests as an inappropriate means of raising money for crippled children to the debate over government control of video pornography. In the Australian Capital Territory in 1984 new classifications were introduced for films and video tapes, in what was intended as model legislation. Under the new x category a video may contain anything except:

> 'Child pornography; bestiality; detailed and gratuitous depictions of acts of considerable violence or cruelty; explicit and gratuitous depiction of sexual violence against non-consenting persons...'
>
> (From the guidelines issued by the Film Censorship Board, May 1984,)

Any person over 18 years of age may buy or hire such a video.

The debate is between those who would argue that adults should be entitled to read, hear and see what they wish in the privacy of their own homes and those who reply that if the exploitation of children is to be prevented then the argument for the prevention of the exploitation of women is equally valid. The Government has now established a Joint Select Committee on Video Classification to examine the effectiveness of current legislation and the likely effects upon people, especially children, of exposure to violent, pornographic or otherwise obscene material. One position, strongly held in some women's groups, is that, deplorable as the impact upon children may be, there should be equal concern as to the impact upon adult males of material which appears to uphold sexual violence against women as normal and to promote the implicit message that women ultimately enjoy sexual violence.

Family education is not a very highly developed area in Australia, (but, for such education in the schools see the section on Article 10). Although New South Wales had a Minister for Motherhood ((a man) in the 1920s, appreciation of maternity as a social function has been limited in a country which has generally looked to immigration rather than a rise in the birthrate as a means of increasing the population growth rate. In general, Australian Governments have treated childbearing and child-rearing as largely private matters. Maternity allowances which had been a feature of Commonwealth social benefits since 1912 were abolished in 1978. While section 61 of the Family Law Act 1975 provides broadly that each of the parties to a marriage is a guardian of any child of the marriage, the only point at which the joint responsibility for the upbringing and development of children becomes an issue is when marriages break down. Section 64 of the Family Law Act 1975 provides that the welfare of the children is the paramount consideration in determining custody.

One more context in which the authorities promote joint responsibilities for child rearing is in child birth preparation classes which are provided free by health authorities and which teach both prospective parents the skills and arts of parenting.

As already discussed, migrants now form a significant component of the Australian population. The Federal Government has a policy of multi-culturalism which commits it to 'the preservation of a culturally diversified but socially cohesive Australian society'. However, in the interests of social cohesion, policy decisions have been made in areas such as domestic violence, divorce, custody, and freedom to choose a spouse which may run counter to the cultural traditions of some migrant communities in Australia.

Federal Government policy in relation to Australian Aboriginal people, particularly traditionally oriented communities, recognises the rights of Aboriginal people to cultural freedom and self determination. However, inadequate consultation with Aboriginal women to date has led to a non-traditional imbalance in power between Aboriginal men and women as they participate in the institutions and power structures of white society. Similarly, lack of consultation with Aboriginal women makes it difficult to determine to what extent traditional customs and practices discriminate against women in the terms of Article 1 and to what extent these practices are changing or have already changed. As already noted, the Australian Government established an Aboriginal Women's Taskforce within the Office of the Status of Women which will report in 1986.

Section 37 of the Federal Sex Discrimination Act 1984 (discussed previously in this report) contains an exemption relating to religious bodies.

Article 6

> States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Whilst persons may be extradited to or from Australia under the Federal Extradition (Commonwealth Countries) Act 1966 and the federal Extradition (Foreign States) Act 1966 in respect of offences relating to prostitution, State and Northern Territory Governments are responsible for legislation dealing directly with prostitution.

Australia has not ratified the 1951 United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. Although Australia is a party to the four earlier conventions which the 1951 Convention is intended to consolidate, the Australian view is that the 1951 Convention, in its preamble and new provisions, shifts the emphasis from the traffic in persons to prostitution *per se.* For example Article 2 creates an offence of keeping, managing or financing a brothel or renting premises for the purpose of prostitution. There are also a number of provisions in the Convention which would appear to be inconsistent with the human rights recognised in other United Nations instruments.

In the past decade, social and legal policies relating to prostitution have been considered by a Commonwealth Royal Commission and three State Parliamentary Inquiries or Commissions, in Western Australia, Tasmania and South Australia. In New South Wales a Select Committee of the Legislative Assembly was appointed in 1983 to investigate and report on the public health, criminal, social and community welfare aspects of prostitution in New South Wales. In 1984 the Victorian Government established an Inquiry into Prostitution to examine the social, economic, legal and health aspects of prostitution for the purpose of making recommendations to the Government on whether existing laws and town-planning practices regulating prostitution should be changed.

It is generally stated that Australian State laws take the approach that prostitution itself is not illegal but that certain prostitution-related activities are offences under criminal law. These include:

- soliciting
- living on the earnings of prostitution;
- ownership and management of brothels;
- exploitation and procuration.

Soliciting:

In all States except New South Wales, soliciting in a public place for the purpose of prostitution is an offence. In New South Wales the offence of soliciting was abolished in 1979. Following public pressure, the Prostitution Act 1979 was amended in 1983 to make it an offence to solicit a person for the purposes of prostitution in a public street near a dwelling, church, school or hospital, or in a church, school or hospital.

The relevant Victorian legislation includes as an offence loitering for the purpose of prostituion. It also includes a unique section which is directed towards clients of prostitutes. It provides that it is an offence in any public place to invite or solicit any person to prostitute themselves for pecuniary reward, or to loiter in or frequent any public place to be accosted by a prostitute.

Victorian legislation is applicable to both male and female prostitution, as is the amended New South Wales law. One authority suggests that in Queensland, Western Australia and Tasmania the situtation is not clear because no definition is given of 'prostitute' or 'prostitution', and female prostitution is therefore assumed. The legislation of Western Australia and Tasmania maintain the use of the expression 'common prostitute'. In Queensland the legislation refers to a person known or suspected of being a prostitute.

Living on the earnings of prostitution:

This is an offence in all States. The provision was originally designed to protect women from exploitation and coercion by male pimps, but has been extended to cover other activities related to prostitution; cases have covered renting premises to prostitutes and driving prostitutes to escort agency customers. In Victoria persons living with or habitually in the company of a male or female prostitute may be deemed to be knowingly living on the earnings of prostitution unless they provide satisfactory proof to the contrary. A similar section was retained in the New South Wales Prostitution Act 1979, which appears to apply in the case of women prostitutes only.

Ownership and management of brothels:

In most States a person may be charged with keeping or managing a brothel; however evidence is required that they have taken an active part in the management. It is more common for the charge to be laid of using or permitting premises to be used for the purpose of habitual prostitution.

In Victoria, following proclamation of certain parts of the Planning (Brothels) Act in July 1984, brothels are subject to planning controls relating to location under the Melbourne Metropolitan Planning Scheme. Provided the brothel operates with a town planning permit, certain prostitution-related activities in a brothel are decriminalised. It is as yet too early to assess the operation of the legislation.

In the revision of the laws in New South Wales, the statutory offence of keeping a brothel was abolished. However, the person may be prosecuted for keeping a disorderly house. It is also an offence to advertise premises as providing massage, steam or sauna baths etc., when the premises are in fact used for the purposes of prostitution.

Exploitation and procuration:

All States have laws making it an offence to procure, entice or lead away a person (who is not a prostitute) for the purposes of prostitution. In addition, young people are specifically protected; the Victorian law, for example, makes it an offence to take part in an act of sexual penetration with a child or young person (persons aged under 16), or to solicit or actively encourage a person under 18, under one's care, supervision or authority, to take part in an act of sexual penetration or gross indecency. Thus the client is liable to prosecution in these cases.

As already mentioned, there are or have been a number of enquiries into the laws relating to prostitution. The major policy options which have been considered can be described broadly as decriminalisation or legalisation. Two other options are also available: The complete prohibition and suppression of prostitution through the extension and enforcement of criminal law and the retention of the current legal provisions relating to prostitution. The case for complete prohibition is based mainly on moral and religious objections to prostitution. A number of women's groups would include the specific objection that prostitution is degrading and exploitative of women.

It has been argued in a number of contexts that laws relating to specific areas of social behaviour have an important education function, indicating the values acceptable to a society and giving implicit support to those who wish to protest against the persistence of the behaviour in question because it disadvantages them. On this argument, the benefits of ending the exploitation of women and of supporting moral social behaviour could be achieved by legislation. However, both the South Australian Select Committee of Inquiry and the Victorian

Inquiry have argued on pragmatic grounds that prohibition of prostitution through legislation is no longer a feasible option. The evidence from the past shows that suppression is impossible and that attempts to enforce more stringent laws would require a substantial commitment of resources.

The option of retaining the legislative position as at the present time was also rejected by the inquiries. Evidence cited from South Australia referred to problems with the laws as presently enforced:

> inequalities - the female prostitute is usually the one prosecuted and not the customer; policing problems; and problems experience by prostitutes because of opportunities for victimisation and loss of civil liberties.

Under the third option, criminal offences applying to prostitution would be repealed. The major ground for such decriminalisation has been that it is inappropriate for the law to be involved in the enforcement of private sexual morality. The South Australian Committee suggested that there should be some controls to prevent abuses such as coercion and assault, and also the normal controls on the operation of businesses, such as location, building and health standards.

The Planning (Brothels) Act 1984 in Victoria has decriminalised prostitution-related activities in brothels with planning permits. Brothels are recognised as a legitimate land use for town planning purposes, and permits may be granted for this use by the appropriate authority. The Act also provides for controls over criminal involvement in ownership or permit holding, and over multiple permit holding.

As discussed briefly already, street soliciting has been decriminalised in New South Wales. However, sanctions against offensive behaviour were retained, and against soliciting in or near a dwelling, school, church or hospital. The statutory offence of keeping a brothel no longer exists.

The remaining option is generally referred to as legalisation. This would involve some form of regulation through controls, such as licensing of prostitutes, restrictions on ownership of brothels, compulsory health checks. It is argued that such regulation could also ensure better working conditions for prostitutes.

However, the South Australian Committee reported that regulation, particularly in the form of licensing, was opposed by prostitutes as degrading. Experience overseas shows that regulation may be difficult to enforce.

The South Australian Committee of Inquiry recommended that the law be altered to provide for decriminalisation of prostitution, but with safeguards relating to street soliciting by men and women, living off earnings where violence and coercion were involved, the involvement of minors (persons under 18) in prostitution, location and advertising of brothels. A Private Member's Bill implementing the recommendations was introduced, but then rejected by both Government and Opposition as badly drafted. There has been no legislative change as a result of the Report.

The Victorian Inquiry has published an Options Paper. It is intended to assist persons or organisations wanting to make submissions or provide information to the Inquiry, and indicates the policy questions and areas of inquiry which appear to be most significant.

Public opinion on the matter of legalising prostitution has changed gradually. Results from a survey conducted in 1968 showed overall 45% considered that prostitution should be legal under some circumstances, and 46% disagreed. A Study undertaken for the Royal Commission on Human Relationships and reported in 1976, indicated that 56% of electors sampled nationally agreed that prostitution should be legal. In both these surveys men were more likely than women to agree. A 1982 public opinion poll showed that 59% of Victorian residents agreed with the statement 'prostitution should be made legal'. Thus although there is now majority acceptance of the proposition it is not overwhelming.

One example of changes in legislation relating to the sexual exploitation of women concerns reforms in the law relating to rape. The decade of the 1970's was a period of unprecendented discussion and activity concerning the reform of laws relating to sexual offences, particularly rape, in Australia. As the Royal Commission on Human Relationships noted:

> "Rape has become one of the most controversial of all crimes in recent years. Undoubtedly the main factor has been the emergence and rapid development of groups concerned with the status of women in the community. To many of these groups, the concept of rape, and the treatment of rape victims epitomises the way our society tends to relegate women to the position of chattels. Other organisations take a less extreme views, but nevertheless express concern at the extent to which the victim of rape becomes in practice the victim of society which has professed to set its face against rape, and which

> in fact imposes very heavy penalties on those convicted of the crime. The reform of the law relating to rape, and the education of the community in its attitudes towards the crime, has become one of the main aims of many women's organisations and other concerned groups".

All Australian States introduced rape law reforms in the 1970's. Amongst the most controversial were the reforms in South Australia which removed the immunity from prosecution of husbands (as principals in the first degree) for rape of their wives. This was an important endorsement of the social principle: that all women have the right to restrict their sexual activities to situations in which they participate of their own free will. Whilst no one envisaged that this change in the law would solve the problem of brutality and rape within marriage, supporters of the change argued that it would serve a very crucial educative role in eliminating legal support for the idea that wives are to be regarded as their husbands' property.

New South Wales has adopted a somewhat different approach to rape law reform. Under the Crimes (Sexual Assault) Amendment Act 1981 the crime of rape as such is abolished and four categories of sexual assault of different levels of severity are established. The emphasis upon violence thus changes the way in which rape is perceived. The common law presumption of husband immunity is also completely removed (with respect to these four sexual assault charges). Following the publication of 'An Inquiry into the Substantive Law of Rape', prepared for the State Women's Adviser's Office, South Australia is now also considering adopting a 'ladder' of four categories of sexual assault as part of a further reform of rape legislation.

In related changes aimed at providing support for the victims of rape a number of rape crisis centres have been established since 1974. To be found in most capital cities, these centres offer counselling and direct assistance as well as campaigning for rape law reform and providing instruction in self-defence techniques. The centres previously received federal funding under the Community Health Program, but are now supported through State Government grants.

The Women's Emergency Services' Program also funds women's refuges to provide emergency accommodation and related support services particularly for women escaping from intolerable domestic situations involving violence, rape and other forms of coercion.

Article 7

> States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country...

In Australia the surviving discrimination against women in political and public life results from custom and stereotyping rather than legislation. Women have the same legal rights as men to vote, to stand for election, to hold public office and to perform public functions. The reality is that they are still severely under-represented in Federal and State parliaments, in local government, on agencies, boards and commissions, in the judiciary, in the senior ranks of the public service, in political parties, in trade unions and on the boards of private companies. This reflects the continuing impact of past discrimination and the persistence of conservative social attitudes as to the limits to acceptable roles for women.

Article 7 (a)

> States Parties...in particular, shall ensure to women, on equal terms with men, the right:
> To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

Australia was a world leader in the enfranchisement of women. In 1901 Section 41 of the Commonwealth Constitution laid down that any adult person with the right to vote in State elections for the more numerous House of Parliament should not be prevented by any law of the Commonwealth from voting in Federal elections. Thus women in South Australia and Western Australia could vote in Federal elections. The federal franchise was made uniform throughout Australia in 1902. The right to vote was attained in South Australia in 1894, in Western Australia in 1899 and in all States by 1908. Voting in both Commonwealth and State elections is compulsory for all eligible Australian citizens. Eligibility to vote in elections automatically confers eligibility to vote in referenda.

While there are some limited restrictions on the right to stand for election to publicly elected bodies, these restrictions are on grounds such as age and criminal record and do not involve discrimination on the grounds of sex. The one limited electoral area in which an element of indirect discrimination against women still survives is in those few local elections where eligibility to vote is restricted to rate payers. Since women are less likely to be rate payers than men, the majority of voters in these local government elections tend to be men.

Since voting is compulsory in major elections, the proportion of Australian women who participate in political life through voting is very large and does not differ materially from that of men. (Before voting was made compulsory in the 1920s some 10% fewer women than men tended to vote). However, where government in the broader sense of the term is concerned, the position is entirely different. In this sphere the political role of women is still extremely limited and grows still more limited at each step towards the 'centre' of political leadership. This steady decline in the proportion of women participants as the more powerful levels are reached is common to legislative bodies, political parties and the trade unions.

During the original 1894 debate on the South Australian Bill to enfranchise women, opponents of the Bill introduced an amendment to allow women to sit as members of parliament. Their belief that this 'ultimate absurdity' would result in the defeat of the Bill was proved to be wrong, but their perception that there would be a much stronger resistance to women as representatives than to women as voters was found to be fully justified. It was forty-one years after Federation before the first woman became a member of the Federal Parliament in 1943 and she was the widow of a former Prime Minister. It was not until 1962 that a woman was selected who was not the relative of a former male member.

In 1960 there were five women among sixty members of the Senate but no women among the 122 members of the House of Representatives. By 1974 there was one woman in the House of Representatives but the number of female Senators had fallen to four. There were 13 female Senators and 6 women members of the House of Representatives in the 33rd Parliament, which was dissolved at the end of October 1984. The 34th Parliament has 14 women in the Senate and 8 in the House, that is, 19% of Senators and 5% of Representatives are women. It would appear that the reason women are more likely to sit in the Senate than in the House is that a group of twelve Senators is elected to represent each State whereas individual Representatives are elected by local constituencies. It therefore requires a greater commitment by parties to support one woman as the candidate for a House of Representatives electorate than it does to support one or two women amongst a State-wide ticket of candidates for the Senate.

There has been one woman Minister in both the present Federal Government and the previous Coalition Government. Both had Cabinet ranking. The present

Minister holds the Education portfolio, the previous Liberal Minister was Minister for Finance, and was earlier the Minister for Social Security.

In the States in 1962 there were no more than ten women members in the eleven State Legislative Assemblies and Councils. By 1974 this number had reached 26 (including the Northern Territory Legislative Assembly). As at the end of 1984, there were 22 women in States' Upper Houses and 21 in State and Territory Lower Houses. This means that women represent 13% of the membership of upper houses but only 5% of the membership of lower houses.

Women have fared no better in local government. At local government level, between December 1919, when the first woman entered local government, and December 1974 a total of 877 women were elected to local governments in Australia. A total of 460 women held seats in local governments in December 1974 as compared with 250 in 1970. Women still represented less than 3% of persons elected to local governments. In 1980 there were 550 elected women local Government officials in a total of 8,845 (ie 6% of the total). This was despite the founding of the Australian Local Government Women's Association as early as 1951 with the specific goal of getting more women into local government.

A 1984 Survey of Victoria's 211 council chambers showed that the largest occupational group represented was male farmers over 50 years of age and that the ratio of men to women councillors was 8.5 to one. Women were also poorly represented in senior council positions. Of 1056 senior officers only 16 were women and they were mostly rate collectors.

Article 7 (b)

> State Parties....in particular, shall ensure to women, on equal terms with men, the right:
>
> (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

This article can be seen as relating to three distinct kinds of participatory rights: the right to join and participate in political parties which formulate policies intended for implementation when the party is in power; the right of employment within the Public Service at the levels at which policy is formulated; and the right to be appointed to perform public functions. In all of these areas women have equal legal rights with men. However, they are very far from being represented in equal numbers with men.

Participation in Political Parties

The traditional wisdom has long been that women are both more conservative and less interested in politics than men. The evidence is that this is less and less true with public opinion polls showing a declining gender gap in conservatism and even, in some cases, a cross-over with younger women being more radical than men. Polls also show women's levels of interest in politics as increasing relative to those of men. It has been suggested that both of these trends result from changes in women's role and self-perceptions. As women have become more highly educated, more consistent participants in the paid labour-force and generally more liberated from domestic stereotypes, it is argued that they also become more concerned with political issues and less inclined to accept the propositions that things should be as they always have been and that lack of change is necessarily commendable.

The political parties do not publish figures on membership by sex. It has been estimated that approximately a third of the membership of the Australian Labor Party is female and that in the Liberal Party females would be about half the membership.

Under the 1982 Rules of the Australian Labor Party, it is mandatory that at least one quarter of each State and Territory delegation to National Conference should be women. This does not mean that at least one quarter of National Conference members are female, as there are a number of Office-holders who are included ex-officio.

The structure of the party organisation includes the National Labor Women's Organisation which is composed of State Women's organisations. This is a recent development within the party, resulting from increasing activity in the State Branches. One of its major responsibilities is the organisation of the biennial National Labor Women's Conference.

The organisation structure of the Liberal Party of Australia includes the Federal Council, the Federal Executive and other committees, and the Divisions in each State and the ACT. Out of the membership of the Council, eight places of the possible total of sixty-four are reserved for women; a number of other delegates attend ex-officio and may of course be female. One Federal Vice-President must be a woman.

The Chairman of the Federal Women's Committee is a member of the Federal Executive and the Joint Standing Committee. The Federal Women's Committee consists of the President of each Divisional Women's section and the

Woman Federal Vice President and the Committee's immediate past Chairman.

The management of the affairs of the National Party of Australia is undertaken by a Federal Council; 9 of the 65 positions are reserved for women. A number of the remaining positions are filled ex-officio, and therefore women may be included. The Federal President of the Women's Section also sits on the Federal Management Committee which has delegated authority for day to day management. Women delegates from affiliated States meet in conference, and the National Party Women's Federal Council, prior to the Annual meeting of Federal Council.

In summary, the constitutions of all major parties provide for mandatory representation of women in the organisations' controlling bodies. This mandatory component represents at the most one fifth of all delegates. A large proportion of the other delegates are there ex-officio. Any significant increase in the proportion of women amongst the delegates will therefore depend on increasing the numbers of women holding office in the parties, particularly at the State level of organisation.

Participation as candidates and elected representatives

Once women are selected as candidates or achieve election, they may be exposed to personal attack and other forms of de facto discrimination.

Women candidates are still often exposed to attack on the grounds of their alleged neglect of their domestic duties. For example, in the 1978 New South Wales State election the woman leader of the coalition team for the Legislative Council was accused of being 'callous, unnatural, a bad mother, her children would be placed in boarding schools, become delinquent, etc'. Whilst all political candidates are subject to some attacks it is remarkable that women candidates still seem liable to attack on the grounds of sex stereotyping alone.

In 1981 a woman councillor in Melbourne brought a complaint to the Victorian Equal Opportunity Board claiming that she was unable to serve her constituents properly because of the alleged sexual discrimination of two male fellow councillors who verbally harassed her and the other women councillors and of the mayor who failed to restrain the harassers. On appeal, the Supreme Court ruled that the provisions of the Equal Opportunity Act did not apply to elected representatives on local councils. Section 32 of the Victorian *Equal Opportunity Act* 1984 deals with discrimination by members of a municipal or shire council. There have been many other complaints of sex discrimination in local government especially relating to women being excluded from committees and the abandonment of traditional conventions such as the succession to the mayoralty when it is finally a woman's 'turn' to be mayor.

Harassment is not confined to local government. One woman State Minister has complained of being pinched on the bottom by a male MP in the parliamentary dining room and there have been other complaints of sexual harassment in State and Federal parliaments.

Some changes have come about with the presence of growing numbers of women in parliaments. Following the election of three women in 1980, the Speaker of the Federal House of Representatives was prevailed on to refer to those assembled in the House as honourable members, rather than as honourable gentlemen, hitherto the custom. The marked expansion in the numbers of ALP women members in the 1983 and 1984 Federal Parliaments has given their Women's Caucus considerable influence within the parliamentary party. In recent years two sitting women MPs have had babies and maintained their parliamentary activities.

Entrance to the Public Service

The Australian Public Service employs over 168,000 staff. Public Service employment is open to all Australian citizens without discrimination between men and women. Selection for appointment from eligible applicants is made through a system of open competition on merit.

In early times the employment of women in the Service was restricted through regulation. For example, a regulation of the first Public Service Act stated:

> The employment of married women in the Service is deemed undesirable, but if in any special case it should be considered advisable to depart from this rule, employment may be sanctioned upon the recommendation of the Permanent Head and the special certificate of the Commissioner in each case.

In 1918, Duncan McLachlan, the first Public Service Commissioner, was appointed as Royal Commissioner to inquire into the administration of the Public Service. His Report in 1919 noted the following personnel practice relating to women:

> It has been the practice to restrict the appointment of women to positions for which, generally speaking, they are particularly suitable, such as those of typist, telephonist, female sorter, in which their utilisation is of advantage to the Service.

Any men employed in these areas were expected to be promoted out by the age of 21.

From 1915 to 1949 women were barred from competing for appointment to the clerical division of the Service. A bar on married women holding permanent office was not lifted until 1966. The effects of these measures are still in operation as may be seen from statistics showing the very low incidence of women over age 40 with substantial service experience. An age limit on base grade recruitment to clerical and keyboard positions which was not removed until 1973 reinforced these exclusions.

Action in the 1970s included the removal of restrictions on 'men only' and 'women only' jobs; the introduction of 12 weeks paid maternity leave and the possibility of extending unpaid maternity leave to one year (1973), establishment of the Equal Employment Opportunity Bureau (1975) and the removal of discrimination from various regulations and allowances (1973-78). Once the obvious institutional Service-wide barriers to women's employment had been eliminated, attention turned to the more subtle forms of systemic discrimination embodied in administrative rules and practices.

In 1981 the Public Service Board introduced a voluntary Equal Employment Opportunity (EEO) program in an attempt to overcome systemic discrimination. This was taken up more enthusiastically by some Departments than others.

The results of statistical surveys indicate that, while there have been significant changes in staff profiles, EEO has not yet been achieved in the Australian Public Service despite the Board's commitment to EEO policies and programs in the past decade. Approximately 37% of all public servants are women. Women, however, are still employed primarily as support staff and tend to be concentrated in the lower level, less satisfying and career-restricted areas of the Public Service.

One of the Service-wide goals of the Board's EEO Programs for Women is to try to increase the numbers of women in senior management. In November 1982 the Board approved several new measures to assist in meeting this goal. These measures included obtaining commitment from senior departmental management to EEO programs, raising awareness of EEO programs; raising awareness of EEO issues among senior male and female managers; improving staff development activities for women; widening the range of jobs occupied by women; and reviewing the selection process.

The Australian Public Service has four levels, formerly referred to as Divisions. The highest level consists of the Secretaries (formerly designated Permanent Heads) of government departments, who carry overall responsibilities for the general working of a department, subject to the Minister's powers under the Constitution. There have been no women at this level until the appointment in January 1985 of a woman as Secretary of the Department of Education. The Senior Executive Service, (formerly the Second Division) includes staff who carry out the more important policy advising and managerial responsibilities and some high level professional staff. At 30 June 1984 there were 58 women representing about 4% of staff at that level, 1489 in total. This represents a substantial increase of over 50% from December 1983. Women have been appointed to Senior Executive positions in a number of departments which traditionally have employed few women including Aviation, Defence Support, Industry and Commerce, Trade, Transport and Veterans' Affairs.

Clerical/Administrative officers of the Service were included in the former Third Division. Although women represent 27% of this Division they are poorly represented in the top ranges. Between 1973 and 1982 the proportion of women in the top salary range of the Third Division grew from 1% to 5%. Even with some external recruitment it is clear that it will be some years before women achieve anything close to parity in the senior executive ranks of the Service.

It is generally accepted that the concentration of women in lower paid positions in the Public Service is a result of many factors, some of which remain outside the control (but not outside the influence) of the Public Service. These include:

social attitudes to the education of women (e.g. women are said to be unable to do mechanical work);

past discriminatory practices in the APS and in society generally (e.g. the marriage bar);

family responsibilities of women (e.g. responsibility for child care);

attitudes of women themselves (e.g. lack of self-confidence); and indirect discrimination (e.g. unwarranted qualification requirements).

As discussed previously, Equal Employment Opportunity (EEO) programs aim to identify all such factors in a systematic manner and to devise programs which will eliminate or lessen their influence. As such EEO has the potential to have a significant impact on the Public Service and lead to a better representation of women at all levels in the Service.

EEO is not directed solely at professional women and women wanting to move into management. It is also deeply concerned with the position of poorer women and other disadvantaged groups (specifically Aboriginals, migrants and people with disabilities). The majority of women employed in the Public Service have jobs as clerical assistants and typists and stenographers. Some 66% of the women, as opposed to 46% of the men, are employed in administrative support, industrial and technical, keyboard and nursing classifications. Owing to technological changes many of these women may well find themselves in jobs which may be affected by technological change. It is very important that these women should have access to a career ladder which allows for movement. Hence also the concern to encourage women to move into areas of non-traditional employment such as technical apprenticeships which have customarily been regarded as male preserves. For a range of cultural and economic reasons this is proving to be a very slow moving development.

In 1980 the NSW Anti-Discrimination Act was amended to require State government departments and authorities to prepare and implement Equal Opportunity Management Plans. The amendment also provided for the appointment of a Director of Equal Opportunity in Public Employment to assist departments and authorities to develop management plans and to evaluate and report on the operation of these plans to the Premier.

The purpose of an equal opportunity management plan is to eliminate and ensure the absence of discrimination in employment on the grounds of race, sex, marital status and physical impairment and to promote equal employment opportunity for women, members of racial minorities and physically handicapped persons.

The Act requires government authorities to send a copy of their management plans to the Director. The Director has produced guidelines to assist in the preparation of plans. Annual reports must then be made to the Director detailing progress in implementing these plans.

If the Director is not satisfied with the preparation or implementation of a management plan, she may refer the matter to the Anti-Discrimination Board for investigation.

The Board may then make recommendations for change directly to the Director or to the authority, or may report to the Premier. The Premier has the power to direct the authority to amend its plan in a specified manner.

Appointment to perform public functions

Appointments to perform public functions in Australia are made in both Federal and State jurisdictions. There are no legal bars to the appointment of women to such offices.

However, in the case of the most senior appointments women are significantly under represented. In the case of the judiciary, there are no women on the High Court of Australia, nor on the Federal Court. Six women sit on the Family Court, including the Chief Judge, out of a total of 46 judges. Two women have been Judges of the Australian Conciliation and Arbitration Commission.

In the States there are now no women at superior court level and only one previously; Dame Roma Mitchell, who chairs the Human Rights Commission, was a Judge of the Supreme Court of South Australia from 1965 to 1983. At the district or county court level in all six States there are altogether four women judges. Women now comprise one third of all law graduates but it will be many years before they attain significant representation in high status positions in the law if the current rate of progress is maintained.

In terms of appointments to public office on the boards of public authorities, etc, one major factor in the failure to appoint women is simply that women's names are not put forward when possible appointees are being considered. Even when suitably qualified for the positions in question, hitherto women have had few of the avenues open to men to have their names brought forward. In particular they have lacked the networks set up through professional, political or business patronage. For some years the Office of the Status of Women has maintained a Register of Women so that information about possible women candidates for appointment is available when required.

The Register was established in 1976 and has been built up through nominations from professional associations, women's and community organisations as well as from individuals.

It contains names of Australian women from all backgrounds. It includes information on their education, work experience, interests and expertise. The Register is used to help meet the Commonwealth Government's objective of more equitable representation of women on all Government bodies. The Register provides one source of names for Ministers, departments and authorities when compiling lists from which selections for appointments to boards, authorities and instrumentalies are to be made.

Since the change of government in 1983 more than 114 women have been appointed to such public offices.

Article 7 (c)

> State Parties ... in particular, shall ensure to women, on equal terms with men, the right:
> To participate in non-governmental organisations and associations concerned with the public and political life of the country.

There are no legal barriers to women's participation in non-government organisations and associations in Australia. Indeed, there is a long and honourable tradition of women's participation in volunteer work. Women's participation can be considered under three main divisions: general non-governmental organisations; organisations which are specifically for women; and feminist organisations.

'Voluntary' or non-government organisations are found in every area of activity in Australian society. These organisations may range in size from a small group of enthusiasts active in lobbying on a local issue to a large well-organised service provider group with a number of paid professional staff and an income of more than a quarter of a million dollars. From one national study by the Social Welfare Research Centre it has been estimated that there are at least 37,000 non-government welfare organisations across Australia. Nearly 60% of these organisations had all or predominatly female volunteers. Overall the gender ratio for volunteers was approximately 3:1, women to men; the ratio amongst paid staff was about the same. However, among management committees there were slightly more males than females; this indicated that women have less participation in policy and decision-making than men.

Figures from population surveys in two States, Victoria and Queensland, show that about 28% of the population overall provided voluntary help to some community organisation during the year ending November 1982. The participation rate for women was slightly higher in both

States: 30% for women, 27% for men in Victoria; 31% and 26% respectively in Queensland. A much higher proportion of the women volunteers were involved in welfare-oriented organisations: 52% as against 31% for men in Victoria, 51% as against 38% in Queensland.

Some women have been able to use the experience gained in voluntary organisations as a stepping stone to paid employment. However, there is some concern that the paid workers, particularly in some of the community service organisations where they are predominantly women, are exploited both because they receive low rates of pay and because they are expected to put in unpaid overtime hours.

The work of the women's organisations can be divided into two broad categories: the provision of services and social change-oriented volunteerism which shades off into effective political participation, not necessarily by way of traditional party political channels. Most of the long-established women's organisations have a primary emphasis upon service provision although some of the largest and most influential such as the Country Women's Association and the Young Women's Christian Association play both roles. Many of the newer, smaller organisations combine their aims for radical social change with the provision of alternative services such as health clinics, or women's refuges.

The largest and best known of the new wave of women's organisations has been the Women's Electoral Lobby (WEL). WEL was founded in 1972 around the tactic of rating prospective members of parliament on women's issues. The tenth anniversary conference of WEL (1982) listed decreasing services to women and children, especially child care, and world peace and disarmament as the major women's issues of the 1980s. Both large organised groups such as WEL and smaller more radical groups are concerned with the feminisation of poverty.

As in Britain and the United States several 'anti-feminist' women's groups have been established in recent years. These groups opposed the ratification of the Convention on the Elimination of Discrimination Against Women and the passing of the Sex Discrimination Act. They campaign strongly for support for traditional family roles, particularly women as 'home-makers'.

Because of their activities in respect of working conditions, trade unions could be described as the most important non-government organisations concerned with the public life of a country. Data for 1983 show that in Australia some 43% of female workers as opposed to 53% of male workers are trade union members. It seems probable that women's lower representation in the trade unions is largely a consequence of the areas of employment in which they are concentrated which are notable for being less heavily unionised, such as part-time work and some clerical work.

Overall 31% of all union members in Australia are women. Unions now realise that if they are to attract more women members they need to devote much more attention to the issues such as child care, part-time work, and repetition-strain injuries which are of special interest to women.

In 1982 the Australian Council of Trade Unions circulated the affiliated unions asking for information about women office-holders. Preliminary results show that among the 200 unions responding only twelve had women full-time secretaries, there were 26 women in the positions of honorary president or vice-president, and there were 35 women full-time organisers or industrial officers.

TABLE 7.1

Political Rights of Women (Years of Enactment)

		Right to vote	Right to be elected	Compulsory voting since
1.	COMMONWEALTH (Federal) Elections	1902	1902	1925
2.	State Elections			
	South Australia	1894	1894	1944
	Western Australia	1899	1920	1936/39
	New South Wales	1902	1918	1930
	Tasmania	1903	1921	1928
	Queensland	1905	1915	1915
	Victoria	1908	1923	1926/35
3.	LOCAL GOVERNMENTS			
	South Australia	1861	1914	NOT Compulsory
	Western Australia	1876	1919	NOT Compulsory
	Queensland	1879	1920	Compulsory
	Tasmania (rural)	1884	1911	NOT Compulsory
	New South Wales	1906	1918	NOT Compulsory
	Victoria	1903	1918	Compulsory
4.	TERRITORIES			
	Australian Capital (Federal Elections)	1968	1968	Compulsory
	Northern (Federal Elections)	1968	1968	Compulsory

TABLE 7.2

Participation of women in parliaments 1974 - 1984

	Total No. of members	Total No. of women ever elected (1974)	Total Women sitting in 1974	Tota wome sitt 1984
1. Commonwealth				
House of Representatives	127	4	1	
Senate	60	10	4	1
2. State Parliaments				
New South Wales				
Legislative Assembly	99	4	1	
Legislative Council	60	11	8	1
Queensland				
Legislative Assembly	82	4	2	
South Australia				
House of Assembly	47	2	1	
Legislative Council	22	1	1	
Tasmania				
House of Assembly	37	3	None	
Legislative Council	19	3	1	Nor
Victoria				
Legislative Assembly	73	4	1	
Legislative Council	34	None	None	5
Western Australia				
Legislative Assembly	51	4	1	4
Legislative Council	30	4	3	
3. Territories				
Australian Capital Territory				
House of Assembly	18	8	3	
Northern Territory				
Legislative Assembly	19	4	2	1

Source: Based on A.V. Smith, "Women in Australian Parliaments and Local Governments, Past and Present, A Survey", Australian Local Government Women's Association, 1975; and personal communication fron M. Sawer.

TABLE 7.3

Representation of Women Officers in the Second Division and in the Higher Levels of the Clerical/Administrative Area of the Third Division APS 1964, 1973, and December 1982 and 1983

Percentage of Women in each Designation

	1964	1973	Dec '82	Dec '83
Second Division	0.2	0.4	2.2	3.0
Third Division Clerical/Administrative				
Class 11	Nil	1.0	4.5	6.1
Class 10	Nil	1.8	5.5	6.4
Class 9	0.5	2.3	10.3	11.3
Class 8	0.8	4.0	11.8	13.2
Class 7	0.8	3.4	13.5	15.7
Class 6	1.6	7.2	20.7	22.5

NOTE: When interpreting this table it should be noted that the figures for 1964 and 1973 include the staff of the then Postmaster General's Department. It is likely that the proportions shown in the December 1982 figures are inflated because of the removal from the statistical base of the male dominated communications industry departments.

TABLE 7.4

A. Trade Unions - Proportion of Total Employed Wage and Salary Earners by sex

End of December	Number of members ('000)			Proportion of total employed wage and salary earners (%)		
	Males	Females	Persons	Males	Females	Persons
1968	1697.7	506.2	2204.0	58	35	50
1969	1720.9	528.8	2249.8	56	35	49
1970	1759.3	571.3	2330.6	56	36	49
1971	1819.7	631.7	2451.5	58	39	51
1972	1833.6	704.6	2538.2	58	42	52
1973	1909.6	763.6	2673.2	59	42	53
1974	1969.5	807.2	2776.6	61	44	55
1975	1986.3	847.2	2833.6	62	46	56
1976	1956.8	843.3	2800.0	61	45	55
1977	1940.6	857.4	2797.9	61	46	55
1978	1969.2	861.5	2830.8	62	46	56
1979	1971.4	902.2	2873.6	61	47	56
1980	2009.5	946.3	2955.9	61	47	56
1981	2029.4	964.7	2994.1	60	48	56
1982	2024.4	988.0	3012.4	62	49	57
1983	2007.2	978.0	2985.2	61	46	55

B. All Employees: Whether Trade Union Member and Age (1982)

Age group (years)	Member of a trade union ('000)			All employees ('000)			Proportion of employees (%)	
	Males	Fem	Pers	Males	Fem	Pers	Males	Fem
15-19	82.4	91.5	173.9	310.1	248.7	558.8	27	37
20-24	223.2	176.1	399.3	494.6	402.9	897.4	45	44
25-34	486.3	225.8	712.1	878.1	520.7	1398.8	55	43
35-44	387.2	175.7	562.9	661.4	415.8	1077.2	59	42
45-54	303.9	136.1	440.0	492.8	281.5	774.3	62	48
55-59	154.6	38.3	192.9	232.9	83.4	316.3	66	46
60-64	65.4	13.6	79.0	104.5	30.6	135.0	63	45
65 and over	4.0	*	7.51	20.1	9.9	30.0	20	*
TOTAL	1706.9	860.7	2567.6	3194.4	1993.4	5187.9	53	43

C. All Employees: Whether Trade Union Member and Occupations (1982)

Occupation Group	Member of a trade union ('000)			All employees ('000)			Proportion of all employees (%)		
	Males	Fem	Pers	Males	Fem	Pers	Males	Fem	Pers
Professional, technical, etc	207.9	219.7	427.6	441.3	410.0	851.4	47	54	50
Administrative, executive and managerial	53.7	5.5	59.2	248.8	40.4	289.2	22	14	20
Clerical	186.4	253.4	439.8	299.6	712.1	1011.7	62	36	43
Sales	31.0	65.5	96.5	171.6	200.7	372.2	18	33	26
Farming, fishing and timbergetting, etc.	29.8	*	30.5	111.1	14.4	125.5	27	*	24
Mining and Quarrying	32.9	*	33.3	39.5	*	40.1	83	*	83
Transport and communication	178.5	18.2	196.7	238.0	41.5	279.5	75	44	70
Trades and production-process workers and labourers, n.e.c.	869.9	148.9	1018.8	1444.9	224.5	1669.4	60	66	61
Service, sport and recreation	116.7	148.4	265.1	199.7	349.3	549.0	58	42	48
TOTAL	1706.9	860.7	2567.6	1993.4	5187.9	53	43	49	

SOURCE: ABS Trade Union Statistics, Australia : 6323.0
ABS Trade Union Members, 1982 : 6325.0

Article 8

> States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

Although there are no legal barriers to women's participation in these areas, Australia's record to date has not been an outstanding one. In 1982-83 the Department of Foreign Affairs had 1,475 men and 1,197 women working overseas but only 10% of those working above the level of clerical assistant were women, and there were no women posted overseas as members of the then equivalent of the senior executive service. Of the 133 Australian Development Assistance Bureau staff and experts overseas only 10% were women.

To date Australia has not kept a record of the sex of persons representing the country on special overseas missions. Such persons are generally selected from a narrow range of individuals who have already some experience of this kind and there are very few women in this group.

The Equal Employment Opportunity Program within the Australian Public Service requires departments to keep statistics on the numbers and proportions of men and women participating in informal development experiences such as international exchanges; overseas postings; overseas trips and departmental representation on important committees and at major events, conferences, meetings.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

The Australian Citizenship Act 1948 deals with the acquisition and loss of Australian citizenship.

Provisions relating to the acquisition of Australian citizenship by birth, by descent, or by grant, are non-discriminatory between men and women. Similarly, provisions relating to the loss of Australian citizenship by acquisition of another nationality, by renunciation, by service in the armed forces of another country, or by deprivation, are non-discriminatory as between men and women.

Article 10

> States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.

General structure of education

While the Federal Government and all State Governments have legislation to make provision for education, under the Australian Constitution State Governments have the major responsibility in this area. From 1979 the Government of the Northern Territory also assumed responsibility for education in that Territory. In the Australian Capital Territory and the external territories the Federal Government has direct responsibility for education. In addition, Federal Government legislation exists to provide assistance to students and to enable supplementary provision to be made to the States for education at all levels.

A basic principle of the education systems in all Australian States and Territories is that all children be provided with an education between the ages of six and fifteen (in Tasmania until sixteen years). State and Territory legislation requires that all children between the prescribed ages must attend either a government school or some other educational institution approved by the Government. Children may be exempted from the requirements of compulsory attendance if they live too far away from school or suffer physical, mental or social disability. Alternative provision is made for these children, usually by means of correspondence tuition and other forms of distance teaching. Special education services are provided for handicapped children who may attend separate special schools, available in the larger centres of population; or special classes or units in regular schools; or they may attend mainly in regular classes, being withdrawn for periods of assistance by special staff.

In each State and Territory a system of government schools at primary and secondary level is provided. Education in these schools is free, though parents are usually expected to pay voluntary fees towards the cost of textbooks and other school equipment, some costs of materials, excursions, and other optional activities. Financial assistance is available to low-income families for meeting such expenses, and also for transport costs.

In each State and Territory there are also non-government schools. An indication of the comparative extent of the provision of these non-government schools may be gathered from the fact that about one in four of Australian children attend such a school at some time in their school life. Systemic Catholic Schools have a loose State/Territory organisation but other non-government schools tend to be created and run by their own independent councils, sometimes within the oversight of a larger authority such as a denominational religious body. Fees are charged for attending these schools, although some schools, generally the Catholic schools, waive or reduce fees for low income families wanting a religiously-based education for their children.

Non-government schools operate under conditions determined by government authorities, usually registration boards, in each State and Territory. In most States and Territories they cannot be opened or continue to operate until they are registered. Provided they meet minimum educational standards, there is no interference in their governance and they are eligible for support from the State and Federal Governments in the areas of both capital and recurrent expenditure.

The secondary school system also provides for students beyond the age of compulsory attendance. These courses normally lead to matriculation qualifications for higher education or for extra requirements for enrolment in technical and further education. There is also an increasing number of transition education courses not oriented to academic qualifications. In the Tasmanian and the ACT Government school systems the final two years of schooling (ie beyond compulsory attendance) are provided in separate secondary colleges.

Universities and colleges of advanced education in Australia are autonomous institutions established under Acts of the appropriate Parliament. The provision of technical and further education is the responsibility of the State and Northern Territory Governments for their respective States; in the ACT it is administered by the Federal Government.

Federal Funding for Education

As already stated, State Governments and the Northern Territory Government are responsible for the provision of primary and secondary education and for the vocationally-oriented technical and further education system. The Federal Government provides funding assistance to the States in both these sectors. Universities and colleges of advanced education are fully funded for agreed teaching and research activities by the Federal Government.

The Federal Government has established two Commissions charged with administering the approved Commonwealth programs of financial assistance for education.

The Commonwealth Tertiary Education Commission was established in 1977 to combine the functions of the Universities Commission, the Commission on Advanced Education and the Technical and Further Education Commission. A Council was established for each sector; each is charged to inquire into and advise the Minister and the Commission on matters relating to its sector. There are two women members on the Commission itself and two or three women on each of the Councils.

The Commission advises the Minister for Education on all matters relating to the granting of financial assistance by the Commonwealth in respect of universities, colleges of advanced education and technical and further education institutions. The funding arrangements recognise the constitutional responsibility of the States, and also are designed to maintain institutional autonomy in academic matters for universities and colleges of advanced education.

The Commonwealth Schools Commission was established in 1973, to advise the Minister of Education regarding standards for buildings, equipment, staffing and facilities at government and non-government primary and secondary schools; the needs of those schools; and matters in connection with financial assistance for schools from the Federal Government. In particular the Commission administers a number of Commonwealth funding programs, for example, disadvantaged schools, special schools, English as Second Language programs, professional development for teachers and projects of national significance.

Since 1981 a woman has been appointed as one of the three full time commissioners, and there are two women part-time commissioners. The Commission is directed to consult and co-operate with State and Territory representatives and authorities, with bodies and authorities connected with non-government schools and with others as necessary in the performance of its functions. It may also undertake or sponsor research as needed to support its functions. Through these powers the Commission has considerable opportunity to stimulate and encourage a wider national perspective on the development of education policies. The Schools Commission report 'Girls, School and Society' published in 1975, has been described as a watershed in educational thinking in Australia. (The report is considered in more detail in a later section).

In its Funding Guidelines to the Commonwealth Schools Commission released on 28 July 1983, the Federal Government foreshadowed funding in 1984 to enable the Commission to undertake projects particularly related to educational outcomes for girls. The Commission was also required to report on the impact of all its programs on the education of girls.

Legislation relating to discrimination in education

The Federal Government's sex discrimination legislation came into force in August 1984. It is now unlawful for schools, colleges, universities and other educational institutions to discriminate against a person on the ground of the person's sex, marital status or pregnancy by refusing to accept applications for admission as a student, by denying or limiting access to particular benefits or by expelling or otherwise subjecting students to detriment. There is a special exemption (relating to employment of teachers and admission of students) for religious schools. Single-sex schools will continue to be able to refuse admission to students of the opposite sex. State anti-discrimination legislation also applies to education.

Government machinery

As previously noted (see introduction), the Commonwealth Department of Education, the Schools Commission and the Commonwealth Tertiary Education Commission have all established policy units which are concerned with the education of women and girls at all levels.

Most State and Territory governments are now assisted by either a women's adviser or co-ordinator for the elimination of sexism and some have anti-discrimination legislation. The position of each adviser varies between States. In Western Australia and the Northern Territory women's advisers have recently been appointed to the education systems. In South Australia the Adviser in Equal Opportunity has responsibilities also for discrimination based on ethnic or racial background and disability. In Queensland the officer given responsibility for non-sexist education has many other functions to perform. In New South Wales, Victoria, Tasmania and the Australian Capital Territory, advisers are employed on a full-time basis. They are involved in developing materials, serving on equal opportunities committees, consulting with schools, and liaising with parent and teacher organisations. With the endorsement of Directors-General of Education, women's advisers in education at Commonwealth and State levels meet every two to three years. In conjunction with each meeting a priority issue paper with a national perspective is prepared and forwarded to the Conference of Directors-General for their consideration.

The New South Wales Government has established an equal opportunity policy within the State Department of Education, with proposals for affirmative action strategies to accelerate the achievement of equal opportunity for groups seen as disadvantaged, including women and girls. The Governments of Victoria, South Australia, Western Australia and Tasmania have developed detailed policy statements on equal opportunity and the elimination of sexism in schools. The Tasmanian policy was formally gazetted in 1979.

Schools Commission funding has enabled the Australian Teachers' Federation to subsidise the employment of women's advisers in the Federation's affiliated organisations in the States. They have initiated a variety of projects including the production of materials for use in classrooms and in-service education programs and the organisation of seminars developing programs to foster leadership qualities among women teachers. They also serve on committees to further equal opportunities for women and girls. The Commission has provided support for the development of women's studies resource centres and has contributed funds for the employment of State education department officers to monitor materials used in schools and to develop new materials that are free of sex bias.

Article 10 (a)

> The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

Primary and secondary education

During the years of compulsory schooling girls have the same educational rights as boys as measured by access to schooling.

In the post-compulsory school age range of 16 to 19 years, age participation rates for both sexes fall as age increases. Until 1976 the female retention rate to the final year of school was lower than the male rate. Since then the female rate has remained higher, and in 1982 40% of females stayed on to Year 12, compared with 33% of males. (It should be noted that the retention rate for both males and females is lower than in comparable countries and is a matter of considerable discussion). It has been argued that many of those who stay on do so as an alternative to unemployment.

In 1982, with funds from the Federal Government and support from the State Directors-General of Education, a national evaluation of projects in non-sexist education which focus on changing girls' perceptions of career opportunities was carried out by Dr Shirley Sampson of Monash University. In her conclusions Dr Sampson pointed out that in every State policies have been enunciated which indicate the intention of education systems to provide schooling which is not biased to the disadvantage of girls and women. However, the finding of the evaluation study was that these policies were not being effectively implemented in schools. Equal opportunity units and resource centres were not sufficiently well established in a number of States and often inadequately staffed to carry out the avowed equal opportunity policies of governments. The implementation of equal opportunity policies in respect of careers information and counselling services provided by schools was also lacking. Careers advisory services were not demonstrating work possibilities and interesting girls in the whole range of trades and technical or scientific occupations.

The first major enquiry into the educational needs of girls and women was sponsored by the Schools Commission in 1974. The focal issue was the extent of underachievement by women and girls in education, measured in the first place by the shorter time girls spent in formal education, and the ways in which this restricted the career and life chances of women and contributed to the inferior status of women. In their report Girls, School and Society, the Committee which undertook the enquiry expressed their concern about the persistence of unnecessary sex differentiation in education, which they saw as potentially harmful to both girls and boys. They considered that it assisted the processes through which messages of inferiority and dependence were passed to girls because they were female. The Committee made a number of recommendations regarding action which could be taken within ongoing programs of the Commission, with the aim of stimulating and supporting people working at all levels within the school systems to act directly for change.

In July 1984 the Schools Commission published Girls and Tomorrow the report of its working party on the education of girls. Using the previous report "Girls, School and Society" as a base-line, initiatives, action and changes since that time were surveyed and the educational outcomes for girls considered. The Working Party's major recommendation was that there is an urgent need for a comprehensive national policy which contains a strategic commitment to equality of educational outcomes for girls. The Working Party comments that although there had been some worthy outcomes from projects funded by the Schools Commission, the impact of the grants had been limited and peripheral. They considered there had been no systematic approach and no fundamental change. In the report it was recommended that the Commonwealth Schools Commission take the responsibility for developing a plan of action for submission to the Federal Government and to consult and co-operate with all bodies involved with education, with a view to encouraging those bodies to take part also.

The Schools Commission has adopted the report in full and has begun developing a draft national policy on the education of girls to submit for Ministerial approval.

Tertiary Education

Publicly funded tertiary education in Australia is provided through institutions of technical and further education (TAFE) and through universities and colleges of advanced education.

The six State Governments and the Government of the Northern Territory are responsible for the provision of technical and further education (TAFE) within their boundaries. The Commonwealth Government is responsible for TAFE in the Australian Capital Territory and also provides supplementary grants to the States aimed at improving the overall effectiveness of TAFE in Australia. With some 250 TAFE institutions, widely dispersed throughout Australia, TAFE provides a range of entry points into tertiary education which cannot be matched by the two higher education sectors (ie universities and colleges of advanced education).

There are major imbalances in the participation of women in TAFE. While the total participation of males and females in TAFE is approximately equal, course segregation on sex-stereotyped lines is marked. With the exception of female hairdressing, women are only present in negligible proportions in trade courses and predominate in secretarial studies and in courses which are non-vocational.

In 1981, the National Working Party of TAFE Women's Advisers was established by TAFE Directors to report to the Conference of TAFE Directors on ways of assisting the development of programs and the promotion of equality of opportunity and outcomes for women in TAFE.

The Working Party has identified to the Directors a number of areas of particular concern to women in TAFE namely:

- Policy and Planning
- Organisational Structure
- Apprenticeships
- Re-entry for Mature Age Women
- Child Care
- Staff Development
- Teacher Education
- Special Needs Groups
  - Migrant Women
  - Aboriginal Women
  - Rural and Isolated Women
- Resource Allocation
- Technological Change

In issuing its Guidelines for 1984 the Commonwealth Government asked the Commonwealth Tertiary Education Commission (CTEC) to recommend ways of achieving rapid and substantial improvement in equality of access to tertiary education (across courses, institutions and sectors), including the provisions of bridging or remedial courses for disadvantaged groups.

In Volume 1 of its Report for the Triennium 1985-87 CTEC indicates its support for funding initiatives in several of the above areas: child care, full-time pre-vocational and pre-apprenticeship courses, bridging and remedial courses, counselling and retraining programs as well as other initiatives which aim to increase female participation in vocational TAFE Courses, including those in non-traditional areas.

In general, while a number of measures have been taken since 1975 to provide hands-on trade and technical experience for girls and heighten community awareness of the need to widen girls' career options, change has been slow and made more difficult by the rapid deterioration in the youth labour market which has occurred in recent years. In 1982 there was a drop of about 30% in the number of new apprenticeships available.

Since 1975 there has been a steady growth in the female proportion of higher education (university and college of advanced education) enrolments. In 1975, 40% of students attending higher education institutions were women, while by 1982 the proportion had risen to 46%. This rise reflects the increasing retention rate of girls to Year 12 in secondary school which thereby increases the numbers of girls with the qualifications for entry to higher education courses. In part it may also reflect the difficult job market of the period as well as women's changing workforce aspirations.

As in all sectors of education the overall figures mask considerable differences in the nature of particpation. In higher education the division between male and female dominated disciplines is still evident despite the fact that since 1975 females have made inroads in all the disciplines. Significant progress has been made in certain disciplines where once women were largely absent. For example the female proportions of university students in Medicine, Veterinary Science and Law in 1982 were 41%, 45% and 40% respectively. Female engineering and technology enrolments have trebled from a very small base of 2% in 1976 to 7% in 1982.

However, although more women are entering the 'masculine' courses some 'feminine' courses are becoming more female-dominated than before. In the case of Humanities (in universities) and Teacher Education (based in colleges of advanced education) the same period has also seen a decrease in the percentages of all students, male and female, taking those courses. This movement is paticularly marked in teacher education. The social and behavioural sciences (universities) and Liberal Studies (colleges) have also enrolled increased proportions of female students, in these cases combined with increased overall percentages.

In 1982 women comprised 31% of the students undertaking higher degrees at Australian universities, showing a marked increase from 21% in 1975. In 1975 more than 75% of female enrolments in higher degree courses were in the field of humanities, social and behavioural studies, and natural sciences, a situation still existing in 1982. Movements in the field of study distribution for males have been less marked, with a decline in the proportion of male enrolments most noticeable in natural sciences, and increases in education and social and behavioural sciences.

Within universities women are very disproportionately represented in the lower grades of academic staff; in 1983 women made up 44% of tutorial staff but only 2% of professors. Within any category of academic staff, women are less likely to have tenure than men. This leaves them particularly vulnerable to staff cutbacks dictated by financial stringency.

Article 10 (b)

> Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

In general, females and males have access to the same curricula, examinations and teaching staff, in premises of same quality throughout the public education sector, where co-ordination is largely standard. However, studies have shown that a school's organisational structures relating to curricula and timetabling can constrain girls' access to certain areas of the curriculum, to their detriment. For example, girls choosing the traditional subjects of commercial studies may find it impossible to combine these with mathematics or science subjects because of timetabling which runs these subjects in parallel streams. Girls may also be actively dissuaded from pursuing non-traditional studies such as technical drawing, metalwork or physical sciences through the career counselling they receive.

Generally the same curricula are available to girls and boys at primary and secondary schools but there are significant gender differences in secondary subject choice. Concern about this issue led the Commonwealth and State Women's Advisers in Education to prepare a position paper entitled Sex Differences in Secondary Subject Choice for the June 1980 Conference of Directors-General of Education. The paper makes recommendations concerning the need for research and data collection and the need for change in curriculum, school organisation and teacher development.

Particular attention has been given to the two science subjects which are of greatest assistance in achieving admission into a number of professional faculties at tertiary education institutions: physics and chemistry. In both of these subjects the disproportion between male and female enrolments is marked. While there has been some increase in female enrolments in senior secondary school chemistry in some States, and despite higher overall female retention rates in Australia as a whole, in the final year of secondary schooling boys still outnumber girls in the physical sciences by more than 2 to 1.

When science enrolments are compared with those for mathematics a similar pattern emerges. While there has been a very significant increase in female mathematics enrolments, an increasing proportion of these students are taking the less specialised and less academically rigorous school mathematics subjects. Where girls do continue with maths, it is often at a lower, less advanced level than boys.

In 1984 the Australian Government established the Participation and Equity Program to encourage young people over the school leaving age to participate in useful and fulfilling education and training activities in technical and further education institutions and schools. The program is the centrepiece of the overall framework of youth policies that the Government is developing. The Government sees this program as a significant step towards the greater and more equal participation in tertiary education of disadvantaged groups, (women, children from lower socio-economic backgrounds, some ethnic minority groups and Aboriginals).

Under the Participation and Equity Program the Commonwealth Government will be funding specific programs to increase girls' mathematical, scientific and technological skills, continuing and expanding earlier State and Federal initiatives in this area.

Article 10 (c)

> The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaption of teaching methods;

Most Government primary schools and the majority of non-government primary schools in Australia are coeducational. Recently there has been a trend to convert the remaining single sex shcools to co-educational institutions.

In the secondary education sector whilst most government schools are co-educational, many non-government schools are single sex institutions.

Post secondary institutions are almost exclusively co-educational.

There is now considerable debate within Australia as to the efficacy of co-education as a means of reducing the educational disadvantages experienced by females. Clearly, where both sexes attend a single institution the physical facilities are the same but access to them may still be unequal. For example, the introduction of computers into schools has seen girls being pushed out of the way so that boys can demonstrate their skills and importance. Classroom studies have shown that where more than one third of the teacher's time is devoted to the girls in a class with equal number of both sexes both the boys and the teachers perceive the girls as receiving a disproportionate (excess) share of the teacher's attention. In areas where girls have little confidence, such as mathematics, a strong case has been put forward for single sex classes to promote confidence and to build up girls' capabilities. Similarly, it has been argued that programs for training unemployed youth should set aside certain centres or certain days for young women so that they will not be disadvantaged by the greater aggression of young men. As already mentioned, many private schools in Australia are single sex schools and it has been argued that the superior academic performance of girls in such schools is, at least in part, the consequence of girls being able to pursue their own goals in a supportive atmosphere with adequate female role models and no temptation to play 'dumb' to please the boys.

Separate female maths and computing classes in co-educational schools in Victoria are showing that girls perform better than in mixed classes. The Commonwealth Schools Commission is currently supporting projects in this area.

These arrangements for separate classes are not to be considered as in any way comparabale to the previous systems of subject 'streaming' which, as already explained, disadvantaged girls by restricting the range of subjects open to them. The separate classes are designed to make it easier for girls to undertake and build up their confidence in subjects hitherto seen as male prerogatives.

The Commonwealth and State Women's Advisers in Education prepared a review of non-sexist curriculum initiatives in the States, Northern Territory and the Australian Capital Territory for the 1983 Conference of Directors-General. The review demonstrated that a number of non-sexist curriculum considerations are beginning to be addressed in schools. Nevertheless, there was considerable variation in the priority allocated to this issue at systems level, and even where high priority was allocated by the State Education Department, a filtration effect operated with non-sexist programs being accorded diminishing priority from central to school level. This was common across systems. In the main, efforts in schools tended to be dependent on individual teachers and/or the commitment of principals to the issue and resistance and inertia were commonly encountered. The paper puts the view that approaches which concentrate on more equal access in curriculum provisions within unchanged curriculum practice are inadequate.

The Women's Advisers have expressed the view that the curriculum currently does not adequately value female experience and largely equates male experience with human experience.

A number of States have mounted in-service courses to alert practising teachers to non-sexist education issues. Problems encountered have included limited interest and limited funds. It has been easier to interest teachers on more specific issues such as the under-representation of girls in mathematics and science courses and a number of States have taken initiatives in this area.

In Australia teacher education institutions are autonomous, determining their own curricula. They cannot be required to promote awareness of non-sexist education issues among trainee teachers.

The Commonwealth Tertiary Education Commission has in its recent Report for 1985-87 Triennium recommended a continuing effort in higher education to improve the preparation of school teachers in mathematics and science, with the object of increasing female participation in those subjects at school. The Commission has, in association with the Victorian Post-Secondary Education Commission, initiated a project which aims to raise the standard of preparation in these subjects in primary teacher education courses.

Article 10 (d)

> The same opportunities to benefit from scholarships and other study grants;

There are a variety of student assistance schemes available which are funded through the Commonwealth Department of Education. The Secondary Allowances Scheme is intended to help parents with a limited income to keep their children at school for the final two years of secondary education. Eligibility is income-tested. The Assistance for Isolated Children Scheme is directed towards parents of children who, because of geographic isolation or a handicap, must live away from home to attend school, study by correspondence or live at a second family home which provides daily access to schooling. The grant includes a basic allowance which is free of income-test. A special concession is also available for families with more than one eligible child.

The Tertiary Education Assistance Scheme provides income-tested benefits to Australian students enrolled for full-time study in approved undergraduate or postgraduate diploma courses in tertiary institutions. The income-test may be applied to parental or spouse income. There is also a Postgraduate Awards Scheme to enable selected students to undertake approved full-time Masters and PhD. courses at universities or colleges of advanced education.

The Aboriginal Secondary Grants Scheme and Aboriginal Study Grants Scheme were introduced in 1970 and 1969 respectively to assist Aborigines and Torres Strait Islanders to take advantage of educational opportunities at secondary school level or for further study and training after leaving school.

There is also an Adult Secondary Education Assistance Scheme, to assist mature people (19 years of age or older) to return to secondary education and undertake a matriculation level course on a full time basis. It is income tested on the same basis as for the Tertiary Education Assistance Scheme.

From July 1983 the Department of Immigration and Ethnic Affairs has administered the program of living allowances for migrants in Advanced English courses formerly provided through the Department of Education. The living allowance is the equivalent of the applicable Unemployment Benefit (UB) and is subject to the same income testing as UB.

The numbers of recipients under the various schemes as at June 1983 are as follows:

Persons receiving assistance from Department of Education and Youth Affairs programmes, at 30 June 1983;

1. Secondary allowance scheme

Number		
Number = 45,558	males	47%
	females	53%

2. Assistance for isolated children

Number = 19,318	males	54%
	females	46%

3. Tertiary education assistance scheme

Number = 84,347	males	47%
	females	53%

4. Postgraduate awards scheme

Number = 2,180	males	65%
	females	35%

Article 10 (e)

> The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women.

Access to continuing education is theoretically equally open to women and men. In practice women are often constrained from participation by family responsibilities and stereotypes concerning appropriate roles. Thus, for example, migrant women find it very difficult to attend English language classes because of their child care responsibilities. Special child care provisions are now being made in an attempt to overcome this problem. Similarly women have found it hard to train as trade union officials because training may involve attendance at residential courses which is not easily combined with many women's domestic responsibilities. There is now a concerted move for more non-residential courses or the provision of on-the-site child care.

Australia does not collect statistical data on adult literacy. However, the 1981 Census shows that there were a total of 149,000 males and 155,000 females who left school before the age of 13, and that 39,000 males and 50,000 females had never attended school. Similar sex differentials emerge in the area of English language proficiency: 31,000 females but only 15,000 males do not speak English at all and 129,000 females as compared with 117,000 males speak English but 'not well'.

Article 10 (f)

> The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;

Figures for 1982 showed that student retention rates for girls are higher than those for boys in all States at years 10, 11 and 12. Indeed by year 12 (the final year of secondary schooling) 40% of girls as compared with only 33% of boys are still in school. Figures for participation by age show a similar pattern with 32% of 17 year old girls as compared with 28% of 17 year old boys staying on in school.

This pattern of more education for girls than boys represents a very recent development. In 1971, at age 17, 24% of girls and 33% of boys were in school. Since that year participation rates for boys have fallen whilst those for girls have risen; the cross-over point when more girls than boys stayed on at school at 17 was 1978. However, some of the girls who are staying on (according to a 1982 survey by the Australian Bureau of Statistics) said they were doing so because they 'couldn't get jobs or find much else to do'.

The Organisation of Programmes for Girls and Women Who Have Left School Prematurely

Prior to the 1970s girls were much more likely to drop out of school early than were boys. Education for girls was held to be relatively unimportant because girls would 'only get married' whereas boys were expected to become the family bread-winner. Now there are a range of problems to face for older women who wish to further an education cut short when they were younger.

Since 1975, there has been a significant increase in the number and proportion of mature age women (over 25 years of age) attending higher education institutions (universities and colleges of advanced education) as students. In 1975, 26% of female students in higher education institutions were over the age of 25, while by 1982, the proportion had risen to 42%.

However, the older women who enter as part-timers are under attack from some quarters for taking places from young people, who, it is implied, have a greater need of and right to government subsidised education.

Article 10 (g)

> The same opportunities to participate actively in sports and physical education;

Sub-section 42 (1) of the Federal Sex Discrimination Act 1984 provides that

> 'Nothing in Division 1 or 2 renders it unlawful to exclude persons of one sex from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant'.

However, sub-section (2) further provides that sub-section (1) does not apply in relation to the exclusion of persons from participating in specific activities including sporting activities by children who have not yet attained the age of 12 years. Thus, up to the age of 12, in general girls cannot be excluded from playing in the same sporting activities as boys.

The Human Rights Commission is undertaking

- a survey of sporting performances by under 12 year olds in swimming and athletics at the intra-school to national level
- research to help clarify the concepts of "strength stamina and physique" and the examination of the extent to which sporting bodies and clubs are using sub-section 42 (1) of the Sex Discrimination Act as a justification for discrimination against women
- the preparation of a bibliography of current literature in Australia and overseas concerning the relevance of strenth, stamina and physique to participation and performance in sport.

Towards the middle of secondary schooling it has been observed that girls tend to lose interest in physical activities and this is often accompanied by a decline in academic performance. In the recent report of the Commonwealth Schools Commission Working Party on the Education of Girls it was suggested that despite the success of many individual female athletes, prowess in sport still tended to be regarded primarily as a male attribute and male sports were accorded a higher status in schools, the media and the community than female sports. The lack of recognition of female sporting success and physical potential had implications not only for girls' general physical fitness but also for their self-esteem and perceptions of their own capacities.

The Commonwealth Government considers that attention to the physical development and confidence of girls in their teenage years is as important as attention to their mathematics and science education. Under the Commonwealth Schools Commission's Projects of National Significance Program, $250,000 was allocated in 1984 for projects particularly related to improving educational outcomes for girls. A priority in that program will be to address physical education and sports offerings for girls in schools.

Article 10 (h)

> Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning;

There are no specific sex-defined barriers to the access to health information. However, health education in general has been a somewhat neglected area and the question of giving advice on family planning to school age children has long been a highly controversial one. On the one side are those who argue that this constitutes an unjustifiable intrusion into family life and the pre-emption of a decision that should be left to parents. Underlying this argument is frequently a belief that young people who are currently innocent will be inspired to go out and experiment with sex by the provision of contraceptive information. On the other side are those who argue that young people have a right to information and that many parents and children would prefer that this be provided by the educational system. They point out that data on births and abortions experienced by teenage girls make it quite clear that experimentation is already underway and that therefore it is preferable that young people who engage in sexual intercourse should be fully informed on family planning.

In the area of general health information this is more likely to be given to girls than to boys under the guise of domestic science or some similar subject. Part of the move towards the reduction of sex stereotyping would be to ensure that such information is given to both sexes in a context which makes it plain that both men and women are expected to be equally responsible for the health and well-being of their families.

In all States, except Queensland, the State Education Departments have approved the introduction of school programs covering human relationships, personal development, health education or similar topics. Information on family planning is almost always included in these programs. Generally each individual school develops its own approach to the topic, often involving parents through the school's parents association. As family planning and other matters relating to human sexuality are still sensitive issues both politically and socially, parents may be given the option of withdrawing their child from the program on individual grounds.

In Queensland, schools may only provide these programs after regular school hours, and parents must be present as well.

There is little information available about the incidence or scope of these programs; in particular there is no comprehensive State by State comparison. As the subject never forms part of the examinable or assessable curriculum even formal records used for other participation investigations eg participation in science (cited above), do not exist.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Women in the Labour Force

The last two decades have seen remarkable changes in the economic status of women in Australia, particularly in relation to the earning of income from labour market activity. The largest changes occurred in the 1969 to 1975 period. The relative improvement in the economic status of women came about through increased participation in the labour force (during a period when male participation fell) and through increasing rates of pay relative to men. Between August 1966 and August 1985 women increased their share of the work force, from 30% to 39% on a per capita basis and from 26% to 32% in terms of hours worked. Between 1968-69 and 1981-82 the female/male mean income ratio for full-time workers increased by a third from 0.56 to 0.75.

Almost all the increase in the female labour force participation rate occurred amongst married women. Strikingly, the most significant increase in participation has been by women with children: in 1969 29% of women with children under the age of 12 years were in the labour force; in 1980, the proportion had risen to 42.5%. In 1984, the participation rate for women with dependent children (under 15 years of age or full time students aged 15-20) was 46%. In addition, studies show that throughout the 1966-85 period there has been an excess supply of female labour not adequately measured by the unemployment rate as it is officially defined mainly because they are not actively seeking employment. They have been classified as 'discouraged' workers, generally because they have experienced problems with discrimination on grounds of age or language, or they have difficulty with child care arrangements, or simply suitable jobs are not available. The numbers of women in this category have however decreased substantially over the past two years.

The female participation rate grew strongly from 36% in August 1966 to 43% in August 1975. This was followed by a period where the participation rate plateaued at about 44%, rising above this level when economic activity was strongest and falling below it when economic activity was weaker. The participation rate began to rise again in 1984, reaching over 46% in late 1985. Increases in the numbers of women in full-time work were largely confined to the pre-1975 and post 1983 periods; in the intervening period part-time work accounted for most of the increase in women's employment. Since 1977 most of the increase in participation has been confined to the 25-44 year olds. Such a massive change in women's life patterns has triggered major changes in society which are beginning to be appreciated by policy makers and the society at large.

In the Australian context it is no longer meaningful to divide women of working age into those who are in the paid labour force and those who are not. Almost all women do participate; whether individual women are in the paid labour force at a given point in time simply reflects the life-cycle stage which they have reached. This is because by far the most important determinants of a woman's labour force status are her age and the age and number of her children. Before having children most women participate in the labour force. When they have young children many withdraw temporarily from paid employment (even so in 1982 31% of married women with children aged under 5 were in paid work outside their homes). As their children grow older women are increasingly returning to the paid labour force.

Recent studies indicate that of all women aged 18 and over who are not currently in the labour force and do not intend to return to it, 50% are aged 60 and over and thus past the usual retirement age for women and a further 17% are aged 50-59 and may have little realistic expectation of finding rewarding employment. Many of these older women have spent a number of years in employment when younger.

Thus paid employment for women is clearly the norm rather than the exception. Most women at home have either retired because of advancing age or are mothers with young children who firmly intend to return to paid employment when the children are older. (Currently surveys show that only 29% of women with pre-school age children do not intend to re-enter the labour force). Of 100 women aged 18 and above in 1984:

14 were women working in paid employment)
for stimulation as much as for money)
) employed
25 were in paid employment chiefly for)
the money)

17 intended to return to paid employment

14 did not intend to return but were) did not
under 50) intend
) to rejoin
30 did not intend to return and were 50+) labour
) force

(Clemenger Network 1984)

The confirmed housewife is thus generally an older woman born into a very different, pre World War II Australia in which few married women remained in regular paid employment. Nevertheless these women average sixteen years of full-time employment each. The younger woman at home is much more accurately described as a "house mother", who stays home for the time being to care for her children (or because she cannot find adequate child care) but who still regards paid employment as her usual activity. Indeed, attitudinal data show that whilst young house mothers are very close to women in the labour force in their attitudes, the older housewives are more like men than the younger women in their view of appropriate roles for women. Many of these women, whilst they no longer have children at home, now bear the responsibility for the care of aged parents who are incapable of totally independent living.

Female labour force participation rates are strongly and positively related to education levels. In 1982 the labour force participation rates of women with university degrees were almost twice the participation rates of those with less than 10 years education.

Women no longer face any significant legal barriers to choice of profession or employment (with the exception of combat or combat-related employment in the Defence Force - see below). However, other barriers remain. Stereotyped attitudes to appropriate occupations for men and women have two effects: they define the superior occupations as being male whilst the inferior ones are female: men give orders to women not vice versa; they restrict the education choices made by girls and the employment options girls see as possible.

The Australian workforce is extremely segregated by sex. Women are concentrated in three main occupational classifications. sales, clerical, and service, sport and recreation; in February 1985 63% of all employed women were concentrated in these three occupational classifications. By contrast, women are seriously under-represented in administrative and executive, transport and communication occupations and in the trades. In August 1985, of all those employed in professional and technical occupations 45% were women. However it must be borne in mind that the very considerable number of women teachers and nurses are included in this category.

Industries are also markedly segregated with the proportion of women amongst those employed ranging from 8% in mining to 63% in community services. Women are markedly under-represented in mining, manufacturing, electricity, construction, transport, storage and communication.

Women and men clearly have relatively little experience of working together in mixed occupations. In 1981 fully 48% of women workers were working in jobs which had at least 70% of female workers, this was despite the fact that only 37% of the total workforce was female. Men equally worked predominantly in occupations with high proportions of male workers but they were spread across a much wider range of occupations. Thus 63% of male workers were in jobs where 80% or more of the workers are male. Thus, even when mixed occupations are defined as those which have 20 to 70% of female workers only a little more than one third of workers work in mixed jobs.

Coming from many different countries and cultures at different points in time, migrant women cannot be regarded as a homogenous group. Work experiences vary greatly according to ethnic background. In August 1985 the proportion of adult women who were in the labour force varied around 46% for the Australian-born and 48% for those born in the United Kingdom and Eire; it rose to 60% for the Vietnamese-born, and 48% for the Yugoslav-born and fell to 36% for the Polish-born and 31% for the Lebanese-born. In general, longer established groups with older members tend to have low participation rates, whilst younger, more recent arrivals have high participation rates. However cultural factors distinctive to individual ethnic groups are also significant determinants of participation levels.

Within the labour force women from English speaking backgrounds have a labour market position similar to that of Australian-born women. Possessing qualifications which are recognised locally and work experience, they are often able to move into both white collar and professional jobs soon after arrival in Australia. In contrast other groups of migrant women occupy a distinctly disadvantaged place. Southern European, Middle Eastern and, more recently, Asian women tend to be concentrated in lower paid jobs with poor working conditions.

Many problems migrant women face at work apply to some of the other women who also work in unskilled blue collar occupations. For migrant women, however, these problems are compounded by different cultural backgrounds, lack of fluency in English, difficulties in making use of general community and welfare services and lack of knowledge of Australian conditions of employment.

Owing to their marginal situation, their child care responsibilities, and, in some cases, their preference for staying home, many women from non-English speaking backgrounds become outworkers doing piece work for employers in their own homes. Such work is often poorly paid, non-unionised, and liable to expose the workers to severe exploitation.

For Aboriginal women, too, race and gender intersect to create a particularly disadvantaged position in the labour market.

Aboriginal women see employment as a means to improve their standard of living, reduce their dependence upon welfare assistance and gain control of their own affairs; yet for the majority of Aboriginal women unemployment is the reality. Their participation rate in the labour force is considerably less than that of non-Aboriginal women, 32% compared with 46% for all women.

The occupations of Aboriginal women in the workforce are highly segregated. As for Australian women generally, Aboriginal women who are employed are concentrated in a narrow range of occupations, often low skilled, low paid and vulnerable to the impact of technological change. The majority work in three occupational categories: service, sport, recreation - 35%, clerical workers - 23%; professional, technicians, etc - 17%. Moreover, even within this restricted range of occupations, Aboriginal women's earnings are far lower than the majority of comparable workers. Only 4% of Aboriginal women workers, irrespective of occupation, earn more than $10,000 per annum. In the occupational group of clerical workers 50% of Aboriginal women earned less than $8,000 p.a. in 1981 compared with 44% of all female workers and 25% of all workers. In the occupational group of professionals and technicians 55% of Aboriginal women earned less than $8,000 p.a. compared with 26% of all women workers and less than 10% of all workers in this group. This reflects the fact that even within professional categories Aboriginal women tend to work in the least skilled occupations, for example they are more likely to work as teachers' assistants than teachers, as nurses' aides than nurses.

The low labour force participation amongst Aboriginal women conceals a high level of hidden unemployment. Many are discouraged from seeking work because of limited employment opportunities, particularly in rural areas, lack of education, responsibility for children or past experience or expectation of discrimination. Many of these women will be in receipt of pensions and not counted in the official unemployment figures.

In October 1984 the Commonwealth Government appointed the Committee of Review of Aboriginal Employment and Training Programs to "examine all Commonwealth Government Aboriginal employment and training programs to determine whether they are still appropriate to the needs of Aboriginal people and if a more effective labour market strategy can be established to improve their employment situation". The Committee's report was released in August 1985. The recommendations include major new initiatives and significant structural changes in the present employment and training arrangements for Aboriginal people. However, few recommendations specifically address strategies to improve employment and training opportunities for Aboriginal women. The government is presently considering these recommendations.

Article 11.1 (a)

> The right to work as an inalienable right of all human beings;

The right to work, the right to free choice of employment, just and favourable working conditions, and protection against unemployment are recognised in the Universal Declaration of Human Rights.

For women, who in the past most commonly worked outside the formal labour force and without recognition as workers, this entails the right of entry into the paid workforce and the removal of the barriers against participating as equals. It means recognition of women's right to economic independence and recognition of the value and variety of the contribution that women can make in the paid workforce. To ensure that working conditions are just and favourable, women must also have the right to organise as workers and to particpate in trade unions.

The barriers to women's right to work that exist at present can be categorized in two groups. Firstly, women's job horizons and options are limited rather than expanded by social conditioning, and education, training and retraining opportunities available. Secondly, the double working life of most women, resulting from their still bearing the major responsibility for children and domestic work, imposes a handicap or penalty on women in the paid workforce. Lacking such provisions as child care, paid parental leave, family leave, refresher courses, flexible working hours and supportive social attitudes, most women are limited in their ability to enter and participate in the workforce.

The idea that women, and especially married women, have the same right to work as men has won only relatively recent acceptance in Australia. Two decisions in the Federal Conciliation and Arbitration Commission during the late seventies contributed significantly to that acceptance.

In 1978 women's right to work after marriage was formally recognised by the Conciliation and Arbitration Commission in an historic judgment. An employee dismissed by her employer, the Rockhampton City Council, because of her marriage took her case to the Committee on Discrimination in Employment and Occupation. Her union, the Municipal Officers' Association subsequently applied to the Commission for a variation in their award to provide that an employer should not elicit a promise from an employee to resign on marriage and should not dismiss an employee on marriage. The Commonwealth and organisations such as the Women's Electoral Lobby and the Union of Australian Women supported the case.

The Commission ruled that it had 'a role to play in the elimination of discriminatory work practices' and thus opened the way for anti-discrimination clauses to be inserted into awards. The Municipal Officers' Award was varied to state that there should be no discrimination on the basis of sex 'other than a distinction, exclusion or preference based on inherent requirements of a particular job'.

A second judgment by the Conciliation and Arbitration Commission in 1979, in effect established the right of women to continue their employment after pregnancy and childbirth. In response to an application from the Australian Council of Trade Unions (ACTU), the Commission issued a determination which provided for a period of unpaid leave up to 52 weeks, including a compulsory period of six weeks immediately following confinement. These or similar provisions now cover most women employees in Australia.

More recently in Australia, women's right to work has been given a statutory basis by the federal

Sex Discrimination Act 1984. Section 14 states:

(1) It is unlawful for an employer to discriminate against a person on the ground of the person's sex, marital status or pregnancy -

- (a) in the arrangements made for the purpose of determining who should be offered employment;

- (b) in determining who should be offered employment; or

- (c) in the terms or conditions on which employment is offered.

(2) It is unlawful for an employer to discriminate against an employee on the ground of the employee's sex, marital status or pregnancy -

- (a) in the terms or conditions of employment that the employer affords the employee;

- (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment;

- (c) by dismissing the employee; or

- (d) by subjecting the employee to any other detriment.

Similar provisions in sections 15 and 16 make discrimination against commission agents or contract workers on the ground of sex, marital status or pregnancy unlawful.

Comparable State anti-discrimination legislation mentioned in Part 1 of this report also contains provisions which effectively recognise women's right to be in the labour force and compete for employment on the same basis as men.

Article 11.1 (b)

> The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

This right is protected by the Federal Sex Discrimination Act or comparable State legislation as referred to above. Where it is alleged that discrimination has in fact occurred the complainant may bring the matter to the attention of the Human Rights

Commission, or an equivalent State body. If settlement by conciliation cannot be achieved by the Sex Discrimination Commissioner or conciliation officer then the complaint is referred to the Human Rights Commission or the appropriate State tribunal for a separate inquiry. If the Commission finds the complaint substantiated it may make a determination, as to the appropriate remedy. Such a determination is enforceable by proceedings in the Federal Court.

Article 11.1 (c)

> The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

There are some limited areas in which women are prohibited from working by the laws of State Governments.

Legislation in some States prohibits the employment of women on manual work in underground mines. In South Australia, the Licensing Act provides that under the age of 18 years only males who are being trained as waiters and messengers shall be employed in the premises of a licensed club, and restricts the employment of women to serve liquor unless they are working pursuant to a State or Commonwealth industrial award. The Child Welfare Act of Western Australia prohibits females under 15 years (but only males under 12 years) from engaging in street trading. The Pearling Act (WA) provides that a pearl fisher 'must be male'.

With respect to ILO Convention 45 which prohibits the employment of women in underground mines, the National Labour Consultative Council agreed in March 1983 that action leading to denunciation should proceed. The ILO has been advised of Australia's intention. Australian women already work in open-cut mines and therefore run the risk of losing their jobs when the mines move underground. Women engineers also find that this 'protection' limits their job opportunities.

Australia's instrument of ratification for the UN Convention contained a reservation relating to the employment of women in the Defence Force:

> 'The Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and

> combat-related duties. The Government of Australia is reviewing this policy so as to more closely define 'combat' and combat-related duties.'

Section 43 of the Federal Sex Discrimination Act provides that it is not 'unlawful for a person to discriminate against a woman on the ground of her sex in connection with employment, engagement or appointment in the Defence Force -

(a) in a position involving the performance of combat duties or combat-related duties; or

(b) in prescribed circumstances in relation to combat duties or combat-related duties'.

Regulations provide that combat duties are 'duties requiring a person to commit, or to participate directly in the commission of, an act of violence against an adversary in time of war' and combat-related duties are those 'requiring a person to work in support of, and in close proximity to, a person performing combat duties, being work performed in circumstances in which the person performing the work may be killed or injured by an act of violence committed by an adversary'.

It is not proposed at this stage to prescribe any circumstances for the purposes of paragraph (b) above.

Since passage of the Sex Discrimination Act the Defence Force has undertaken a review of its employment practices in respect of women. As a result of this review, in excess of 16,000 positions, out of a total force of approximately 70,000, are now open to women on the basis of merit in competition with men. This represents a significant increase in Defence Force employment opportunities for women. Currently approximately 5,100 Defence Force positions are actually occupied by women.

The area where women have been most significantly under-represented is in the skilled trades. In 1982-83 there were only some 11,910 female apprentices throughout Australia. This number represented 8.6% of the total number of apprentices. However, if hairdressing which accounts for 82.6% of all female apprenticeships is excluded, then females comprise 2.1% of all apprentices. Apart from hairdressing, the main trades in which women were in training were food and printing where females comprised 10.2% and 2.5% of apprentices.

Trades qualifications are very important as a gateway to comparatively well-paid occupations and as insurance against unemployment. Of females in the labour force in 1981 in the 15-24 and 25-44 age groups with some post-school qualification, 5% and 6% had achieved trade qualifications as compared with 79% and 64% of males in these age groups.

In recognition of the fact that this major avenue for training and employment has in the past provided strikingly few benefits for women, in 1984 the Government provided a Special Additional Employment Incentive for Female Apprentices as part of a package of measures under the Commonwealth Rebate for Apprentices Full-time Training Scheme (CRAFT) designed to increase the overall apprentice intake in 1984. It comprised a $750 tax exempt payment for every extra woman apprentice employed at 30 June 1984, over and above the number employed at 30 June 1983. This applied to all trades except hairdressing. Employers who qualified for this incentive were also eligible for up to another $1,000, if they had to adapt facilities for women. Employers have often cited inadequate facilities as a reason for not employing women apprentices, and this grant was to help them overcome such problems.

With the special incentive for women apprentices and these other elements of CRAFT, employers could receive a tax exempt payment of up to $4,000 for taking on a woman apprentice. This payment would be in addition to the Technical Education Rebate and the Off-the-Job Training Rebate also available under CRAFT.

The Special Additional Employment Incentive for Female Apprentices was designed to familiarise employers with the idea of employing female apprentices in a wide range of trades and to encourage a more equitable basis for the choice of apprentices in the future. It was hoped that the incentive would be of particular benefit in improving access to those trades where women are least represented, namely the metal, building, electrical and vehicle trades. However, the program applied to the period ending 30 June 1984 only.

Section 33 of the Federal Sex Discrimination Act 1984 exempts from its operation acts which have the purpose of ensuring that persons of a particular sex or marital status or persons who are pregnant have equal opportunities with other persons.

The Government's major job creation program, the Community Employment Program (CEP) has, as a major objective, the achievement of equal female participation. The 50% target for women's participation in the program is an acknowledgement of the need for an affirmative action policy to ensure women's access.

The implementation of some of the major recommendations from the report of the Committee of Inquiry into Labour Market Programs is also expected to assist in improving women's participation in all labour market programs. The Government has announced a new traineeship system for young people which will provide important new opportunities for young women and men. A new integrated adult program will provide major support for the training of disadvantaged job-seekers, including single parents and women re-entering the workforce after long periods of absence due to family responsibilities. In the Special Trade Training Program, aimed at developing new approaches to complement traditional apprenticeship training, 500 places have been approved for women on preparatory pre-employment courses in the current financial year.

The Government is also pursuing a policy of affirmative action to enable women in all kinds of jobs to secure their entitlements to equal employment opportunity in the workplace. This policy was tested in a practical fashion through a 12-month pilot program.

Legislation will be introduced early in 1986 requiring all higher education institutions and private sector employers of more than 100 persons to report annually to the Government on their plans for providing equality of opportunity for women.

Article 11.1 (d)

> The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

There is no difficulty in documenting the existence of wage discrimination in the past because until 1975 the gender of the worker was an explicit consideration in fixing wage relativities between classes of workers. Since the turn of the century Australia has had a judicial and quasi-judicial system of wage fixing which effectively governed the minimum rates of pay for different classes of workers. From 1919 until the second world war wages for jobs performed predominantly by women were fixed at 54% to 56% of the male basic wage plus a margin for skill. The basic wage was theoretically a living wage for a married man and his dependent wife and children. During the second world war when many women moved into areas of traditional male employment a special tribunal, the Women's Employment Board, was established which varied this relativity to 90% in cases where women were doing work traditionally done by men. Women's wages generally drifted up to around 75% of the male rate. This relativity was formalised in 1950 and persisted until 1969, when the first of three national equal pay decisions were taken by the Australian Conciliation and Arbitration Commission.

The 1969 decision 'equal pay for equal work' only affected jobs in which women performed the same work as men. The decision did not apply, however, to women workers considered to be performing work normally or usually performed by women. It was only in 1972 when the Commission adopted the wider principle of 'equal pay for work of equal value', to be phased in over three years up to June 1975, that the gender of the worker ceased to be an explicit principle in setting relative wages. The third national equal pay decision, the Minimum Adult Wage in 1974, set a minimum wage for the lowest paid women workers as well as male workers in full-time employment. Before that time there had been a national minimum wage for males but not for female workers.

In 1968-69 the female/male ratio for average earned income for full-time, full-year workers stood at 56% at a time when the legal rate for women's award wages was 75% of the male rate. By 1973-74 the ratio had risen to 64% and by 1978-79 to 73%. Thus legal intervention resulted in 16% decrease in the differential between female and male wages in a decade. By 1981-82 the ratio had improved by another 2% only, to 75%.

A detailed analysis of the income data from the 1976 Census makes it possible to estimate the impact of various social changes upon the income gap between males and females. Differences in hours worked accounted for 24% of the income gap between male and female full-time workers; occupational segregation accounted for a further 16% of the gap; equalising schooling and qualifications would only narrow it by a further 2% (however women receive only half the returns on qualification that men receive). Differences in potential work experience (measured by age, minus age left school) account for 9% of the difference. This estimate is biased downwards because it does not allow for the years of child rearing which women spend out of the paid labour force. Adjusting for differences in worker characteristics raises the female/male income ratio in 1976 from 65% to 79% leaving an unexplained residual of just over 20%. This would make Australia probably the least income discriminatory of nine industrialised nations (the proportion for the United States is 45%). That is to say that if women behaved like men in their workforce participation they would earn close to the sums earned by men.

The conclusion which can be drawn from this analysis is that equal pay provisions may well result in equal pay for women working full-time, full-year in predominantly male or mixed-sex occupations. But the persistence of sex-typed jobs together with growing part-time work for women and the persistence of limited career choices among Australian adolescents will mean that in the future, as in the past, the majority of women will experience lower lifetime incomes and a secondary status as income earners within the family. The one group of women who, even in 1976, enjoyed equal incomes with their male counterparts were women administrators in government employment, but they represent only a minute proportion of the female labour market.

In the June quarter of 1985 the total weekly earnings of adult women working full-time were $343 as compared to $435 for men. Thus the ratio of female to male earnings was 79 : 100. If over-time payments are excluded the ratio increases to 83 : 100.

This leaves wage differentials resulting from over-award payments, differences in age, education and training, occupational and industrial segregation, and vertical segregation in which women are clustered in positions of low status and low pay within each industry and occupation. Figures for 1983 showed that by industry full-time women workers receive between 70% (in construction) and 87% (in public administration and retail trade) of the earnings of men in the same industry. For many women the differential is even greater than those discussed above because they are only working part-time (ie less than 30 hours per week). In 1985 37% of employed women worked part-time as compared with only 7% of males. Clearly a major factor in the high proportion of women who work part-time is the fact that women still bear primary responsibility for child-rearing.

The Australian Council of Trade Unions (ACTU) has commenced action to test the application of comparable worth or pay equity, using the nursing profession as a vehicle. It will seek to test the opinion that the 1972 Equal Pay Decision embraces the concept of comparable worth. The test case will involve the comparison of the work done by nurses with work in specified predominantly male occupations.

Article 11.1 (e)

> The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

The Australian social security system is very different from that of many other countries. Australia does not have a social insurance scheme under which pensions and benefits are financed by specific contributions levied on employers and employees. Rather, Australia's social security pensions and benefits are wholly financed from the Commonwealth Government's general revenue and benefit rates are unrelated to previous earnings or employment.

Eligibility for a social security pension or benefit is based on a number of distinct eligibility categories. Pensions and benefits are intended to provide comprehensive protection against economic hardship caused by the major contingencies of life ,such as age, invalidity, sickness, unemployment, widowhood or lone parenthood. A principle aim of the system is to provide a basic level of security below which no one can involuntarily fall. Certain income-tested fringe benefits are also available to pensioners and recipients of supporting parent benefits. These include medical benefits, free pharmaceuticals, telephone rental concessions, reduction in council and water rates and reductions in public transport fares.

There are no areas of formal discrimination against women in the Australian social security system and certain provisions treat women more favourably than men. Women aged 60 years and over may apply for an age pension, compared with an eligibility age of 65 years for men. Also, a wife's pension is available for the wife of an age or invalid pensioner if she is not eligible for a pension or benefit in her own right.

There have been changes in Australia's social security system aimed at equalising the treatment of women and men. In 1977 the supporting mother's benefit was replaced by the supporting parent's benefit which extended eligibility for income support of single parents with dependent children to male sole parents. Also in 1977, the conditions for sickness benefit were altered enabling a married woman to qualify for the benefit on the same basis as a married man.

Although the Australian social security system does not formally discriminate against women, in practice the personal circumstances and earning capacities of women often result in indirect discrimination. Such discrimination stems mainly from the income-test applied to most pensions and benefits under which the pension or benefit is reduced if income from other sources exceeds certain limits. In contrast to the individual unit employed in Australia for taxation purposes, the income-test in the social security system is based on the joint income of a married (including de facto) couple. Autralia's income-test arrangements are related to the financing of social security payments from general revenue rather than from specific social insurance contributions levied on individual employers and employees.

The social security income-test works to the disadvantage of many married women. For example, if her husband is unemployed, the income-test provides a strong disincentive against a married woman working, particularly working part-time, considering the generally lower income earning capacity of women. Alternatively, if a married women is unemployed, she is unlikely to be eligible for unemployment benefit since her husband's income will generally be far above the income-test limit.

Since they have no independent right to unemployment benefit, many married women do not bother to register as unemployed and looking for work with the Commonwealth Employment Service (CES) especially when there is little appropriate work available locally. This in part accounts for the under-estimation of female unemployment in official statistics. Lack of registration also cuts many married women off from eligibility for retraining programs which frequently depend upon having been registered as unemployed with the CES for a number of months.

Another consequence of Australia's income-tested system of pensions and benefits which particularly affects women is the high effective marginal tax rates faced by pensioners and beneficiaries. Pensioners and beneficiaries who earn income above a certain level lose part of their pension or benefit as well as incur tax on their earned income. The high effective marginal tax rates which result from the combination of the withdrawal of pension or benefit and taxation of earned income can create "poverty traps". This is particularly a problem for female sole parent pensioners many of whom can not "afford" to work taking into account loss of pension and fringe benefits, the costs of child care and the generally lower wages women receive. The Government recognises that there is a problem with work disincentives for pensioners and recently announced a number of measures aimed at reducing the high effective marginal tax rates and the poverty traps faced by pensioners.

Currently there are no social security benefits generally available in Australia for women to cover the period just before or just after childbirth. Paid maternity leave which is available to some, mainly government, employees falls outside the ambit of the social security system.

Until October 1978 a maternity allowance was payable as a lump sum to women on the birth of a child to assist with the costs associated with childbirth. The allowance was abolished from November 1978 on the grounds that the need for it had been superseded by improved health care and family allowance provisions.

An important exception to Australia's system of income-tested social security payments is the provision of family allowance on a non income-tested, non-taxable basis to all families with dependent children. Before 1976 assistance to families with dependent children was provided through the tax system by income tax concessions and through the social security system by a small child endowment. In 1976 tax concessions for the maintenance of children were abolished and child endowment (which became known as family allowance) was substantially increased. The change from a tax concession to a cash transfer was a progressive move because the tax concession benefited high income earners more than low income earners and because the concession was most often received by fathers whereas family allowance is generally paid directly to mothers.

An adverse consequence of the shift to a cash transfer has been that, because family allowance is not indexed for cost of living increases, its real value has declined since 1976. Although the basic rate of pension and benefit has been automatically indexed since 1976, child-related payments in the social security system have not increased in line with inflation. The non-indexation of these payments has meant that there has been a deterioration in the position of taxpayers and social security recipients with children relative to the position of those without children. The present Government has addressed this problem by giving priority in its social security expenditure to targetting additional assistance to families in greatest need.

As in other countries, women in Australia, particularly women with children, are more vulnerable than men to poverty and to dependence on government social security payments. At June 1985, 59% of pensioners and beneficiaries were women. Women comprised 69% of aged pensioners, 27% of invalid pensioners, 96% of sole parent pensioners and 27% of unemployment beneficiaries. Many other women were wholly dependent on pensions and benefits received by their husbands.

Whatever the limitations of their design, family allowances, widow's pensions, supporting parents' benefits and other social security provisions are important resources for women. It is not a coincidence that the introduction of the supporting mother's benefit (as it was in 1973) has been followed by marked declines in both the offering of the children of unmarried women for adoption and in the number and proportion of marriages of young unmarried women who are pregnant. For many women social security payments provide a measure of autonomy which would not otherwise be available to them.

Article 11.1 (f)

> The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Article 11 is quite clearly concerned 'to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women, the same rights'. Thus the reference to the protection of health and safety in working conditions and to the safeguarding of the function of reproduction unquestionably applies to equality between the sexes and not to special protective measures for women. No one should be obliged to work in conditions which threaten their health and no one male or female should be asked to put their reproductive potential at risk.

In the past 'protective' legislation for women has been used as a reason for excluding women from certain jobs. The Australian view would now be that the answer to health hazards is not to prevent women from working in certain industries and occupations but to ensure that the conditions pertaining in these industries and occupations are such that women as well as men can work in them safely. This is in line with the ILO view that protective legislation should be used sparingly and that protection of maternity should not compromise equality of the sexes in regard to employment.

Occupational health problems stem from the nature of the work not from the people who are doing the work. Thus factory workers may face problems because of high noise levels, dust or other pollution in the air fumes, irritants in contact with the skin, unguarded machinery, an excessive pace of work, night shift work, etc, but these are not problems specific to one sex. One sex-based difference may be that women may be more likely to be exhausted by their work in the factory not because of the nature of that work, but because of the expectation that they should also be responsible for the bulk of housework and child care at home and the consequent problems of tiredness associated with working the 'double shift' at home and at the factory.

One occupational health issue which is of special concern to women, because they are most often the ones to be employed in work where the risk is greater, is repetition injury, which includes tenosynovitis, a painful inflamation of the tendons and tendon sheaths of the wrist and hand and myalgia, muscle pain. The pain and swelling make it hard or impossible for the person to do simple tasks such as opening doors, writing or peeling vegetables and even more so to continue working on an assembly line.

Tenosynovitis is caused by rapid repetitive movements of the hands such as those that are characteristic of much light factory process work and also of much clerical work which involves unremitting rapid keyboard operations. Myalgia is caused by the static load on muscles as they maintain a constant position such as that on arm, shoulder and wrist muscles which hold fingers poised over a keyboard or hands poised over a machine. Tenosynovitis and myalgia are part of a broader group of repetition strain injuries (RSI) which have gained recognition as a serious industrial problem. It is likely that had the problem been one experienced equally by male and female workers its nature and seriousness would have been recognised much earlier. The solution to the problem of RSI is clearly not to exclude women from performing such work where the risk is high, but to adopt a preventive approach through job rotation and variation, adoption of reasonable standards in the pace of work, and improving the design of both tasks and machinery to ensure a greater repertoire of movements for workers.

Article 11.2

> In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
>
> (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

Section 14 of the Federal Sex Discrimination Act 1984 provides that

(1) It is unlawful for an employer to discriminate against a person on the ground of the person's sex, marital status or pregnancy -

(a) in the arrangements made for the purpose of determining who should be offered employment;

(b) in determining who should be offered employment; or

(c) in the terms or conditions on which employment is offered.

(2) It is unlawful for an employer to discriminate against an employee on the ground of the employee's sex, marital status or pregnancy -

(a) in the terms or conditions of employment that the employer affords the employee;

(b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment;

(c) by dismissing the employee; or

(d) by subjecting the employee to any other detriment.

Anti-discrimination legislation of four States has similar provisions. However, the existence of legislation by itself is not enough to ensure that pregnant women or married women are treated fairly. There appears to be a widespread feeling amongst older male employers that the public dislikes being served by visibly pregnant women and such women may well find themselves being transferred to back rooms where their only contact with the public is over the telephone.

Similarly when there are redundancies and some one has to go, complaints to equal opportunity bodies clearly show that some employers feel that it is equitable that pregnant women should go first, 'since they are due to leave anyway'; and then married women 'since they have husbands to support them'. There is no evidence that these employers base redundancy decisions on actual rather than stereotyped dependency burdens.

In the past, it was common in mining towns where there were very few perceived employment opportunities for women, for 'female' jobs to be reserved for unmarried women. The feeling was that if such provisions were not made then all the young women would leave town in search of work. Although union agreements are no longer negotiated along these lines, cases still surface where women in these towns are asked to resign when they marry. Even where this is against the law the social pressures on married women to resign in favour of married men or the unmarried can be powerful.

The decision of the Australian Conciliation and Arbitration Commission in the recent Termination, Change and Redundancy Case (2 August 1984) has established that termination by an employer shall not be harsh, unjust or unreasonable and that sex and family responsibilities should not constitute valid reasons for dismissal:

> 'Except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall not constitute valid reasons for dismissal.'

This decision goes beyond the provisions of the Sex Discrimination Act in that family responsibilities are added to sex, pregnancy and marital status as prohibited grounds of discrimination. However, the decision refers only to dismissal and does not cover hiring or conditions of employment. It is also the case that such provisions have to be incorporated into individual industrial awards before they become effective. The principles put forward by the Australian Council of Trades Unions have been accepted by the Commission and the precedent for including family responsibilities has been established.

Article 11.2 (b)

> To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

Australia has lodged a reservation with respect to this section. As early as 1960 the ILO found that there were 89 countries which met with its maternity leave requirements. Currently, Australia, Switzerland and Turkey are the only industrialized countries not to provide for paid maternity leave. In broad terms the Australian position is that maternity leave with pay is available to most women employed by the Commonwealth Government and the State Governments of New South Wales and Victoria.

For private sector employees the current position in Australia is that all industrial jurisdictions have introduced unpaid maternity leave. At Federal level, the Australian Conciliation and Arbitration Commission issued a determination in March 1979 which provided for unpaid leave of up to 52 weeks, including a compulsory period of a minimum of six weeks immediately following confinement. It covers both full-time and part-time employees with a minimum of twelve months service, but not casual or seasonal workers, and includes provisions to protect women from dismissal on the grounds of pregnancy or maternity leave, and provisions relating to transfer to a safe job, special maternity leave and sick leave. There has been a flow-on of the provisions of the determination to federal awards under which women are employed.

Since the Conciliation and Arbitration Commission's determination generally similar provisions have been extended to those employed under State awards. These provisions are contained in:

Victoria:	Industrial Appeals Court Decision (1979);
South Australia:	Industrial Commission of SA decision in Clerks (SA) Award (1979);
Western Australia:	Order of WA Industrial Commission (1980); Common Rule Award of the State Industrial Board on the Matter of Maternity Leave (1980);
New South Wales:	*NSW Industrial Arbitration (Amendment) Act* 1980;
Queensland:	Decision of the Industrial Conciliation and Arbitration Commission of Queensland (1980).

There are very few paid maternity leave schemes in the private sector.

The 28% of women wage and salary earners who work under federal industrial awards are clearly covered by provisions allowing from 6 to 52 weeks of unpaid maternity leave. Other women employees need to establish the provisions of the award under which they are employed. (Some 66% of women are employed under various State awards - the remaining 6% not employed under any award, state or federal, and almost certainly would not be entitled to any form of maternity leave).

Social security benefits subject to an income test are available to women who are or are about to become sole parents. Otherwise there are no special social benefits for women who are on maternity leave.

Article 11.2 (c)

> To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life in particular through promoting the establishment

and development of a network of child-care facilities.

The public provision of child care in Australia is extremely inadequate when compared with the demand for such care. In June 1985 Government subsidised child care places catered for 7.5% of children under 5. Successive Governments have taken differing stances on the public funding of child care services and much of the public debate over the last few years has focussed on the question of what level of public support should be provided to those considered to be outside the group 'most in need'.

Another factor in the public debate on child care is that many sectors in the community have failed to acknowledge the very significant movement of women with children into the paid workforce.

The reality was that between 1969 and 1980 the labour force participation rate of those responsible for children under twelve years of age rose from 29% to 43%. Further some 13% of families have only one resident parent (in 89% of cases a mother). Single parent families, especially those headed by women, are one of the groups most vulnerable to poverty. Yet for many lone mothers the costs of child care are such that they cannot add to their incomes by re-entering the workforce because the costs of working deplete their after tax incomes to a point below their social security entitlements. Those who are able to gain access to government subsidised facilities do not face this situation as a fee relief scheme operates to reduce fees for those on low or moderate incomes.

The Federal Government, by way of the Children's Services Program, provides capital and recurrent funds for the establishment and operation of a range of children's and family services, including day care centres and family day care schemes.

The 1983-84 allocation for the Children's Services Program was $119 million made up of $86 million for child care and related services, and $33 million in pre-school block grants to the State and Northern Territory Governments. This allocation represents a 32% increase in non-pre-school expenditure over 1982-83. It included $10 million for new initiatives and projects. A further $30 million was appropriated for new initiatives in 1984-85. In the 1985-86 Budget the Federal Government announced that it would provide a further 20,000 places over a three-year period, thus doubling the provision of subsidised child care places over a five year period and providing subsidised care for 9.5% of children under five.

The Government has recently moved towards a planned approach to the provision of new and expanded services. In the past funding largely depended upon the receipt of submissions requesting support, a procedure which tended to advantage more articulate and well-organised groups. The establishment of State and Territory planning committees involving government departments, local authorities and community representatives is underway (but without a specific commitment to proportionate representation of women on the committees).

In 1985 the Government announced new guidelines under the Children's Services Program to encourage the provision of work-related child care. While there is a continued high reliance on informal child care arrangements, it is no longer possible to assume that child care can rely upon the unpaid labour of women at home. Smaller families and greater geographical mobility have meant that older siblings, grandmothers and aunts are much less likely to be available to provide alternative care (also many aunts and grandmothers are now in the paid workforce themselves). There are also three main social trends which are influencing the increased demand for child care.

(1) There are more single parent families not only because divorce and separation are becoming more common, but also because more unmarried women are bringing up their own children.

(2) There are more families with low incomes (say because the husband is working a shorter week) and high commitments (most often housing loan repayments) where it is essential for the wife also to contribute to the family income.

(3) There are more women who regard participation in the paid workforce as a continuing part of their lives rather than an occasional incident. Not all of these women have "careers", but they all have a self-image of themselves as independent wage earners. In 1984 45% of families with dependent children had either both parents or the sole parent in the paid labour force.

Many women are prevented from re-entering the paid workforce because of the lack of appropriate child care. Such women do not appear in the unemployment statistics because they are not actively seeking work, though statistics on such hidden unemployment are now collected. Equally many women are obliged to take part-time work because of the demands of child care;

such work often offers low security, poor pay, and no superannuation, sick or long service leave. In March 1985 there were 72,700 women who said that they would seek work if child care were available and a total 232,900 who said that family considerations were the reason why they were not actively seeking work. Poverty surveys have shown that the number of families in poverty would double without the labour force participation of mothers.

Article 11.2 (d)

> To provide special protection to women during pregnancy in types of work proved to be harmful to them.

The Conciliation and Arbitration Commission's determination on maternity leave (1979) contains provision for transfer to a safe job with the same pay and conditions where, in the opinion of a medical practitioner, it would be inadvisable for an employee to continue in the work to which whe has been assigned and where this is deemed practicable by the employer. The National Labour Consultative Council advised 'Some maternity leave provisions allow you to change to a more suitable job, with your employer's agreement, if your usual job presents hazards to your health or that of your unborn child. You would need a doctor's certificate confirming this .... if you find it difficult to do your work when pregnant and cannot transfer to "safer" work or use other types of leave to take time off, you may decide to arrange your maternity leave so that you have more time off before the birth'. (Maternity Leave, 1983 p.6).

Article 11.3

> Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

There is a potential for conflict between equal employment opportunity as provided for in Article 11.1 (b) and special protective legislation for women. In Victoria, South Australia, Western Australia and the Northern Territory, legislation has been amended to remove prohibitions against women working underground in mines, in order to fully apply the principle of equal opportunity in employment in the mining industry. These changes conflict with International Labour Office Convention No. 45 - Underground work (Women) of which Australia is a signatory. The National Labour

Consultative Council agreed in March 1983 that action leading to denunciation should proceed. The ILO has been advised that Australia is considering denunciation of this Convention.

Another area of potential difficulty relates to statutory maximum loads for manual lifting which differentiate by sex. Experience has shown that such legislation is commonly put forward by employers as a reason for refusing to employ women in certain occupations.

This issue of differential limits in State legislation and State and Federal awards has been under consideration by the National Labour Consultative Council's Committee on Women's Employment, the Departments of Labour Advisory Committee and the National Consultative Committee on Occupational Health and Safety. The National Occupational Health and Safety Commission has established a Working Party on Manual Handling to review Australian occupational health and safety legislation, prepare a position paper in relation to existing provisions which differentiate on sex and age and draft a code of practice.

Given the very high incidence of industrial accidents involving back injuries resulting from lifting heavy weights there would appear to be a good case for creating equality by introducing protective legislation for all workers irrespective of sex.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 12.1

Under Australia's federal system of government, there is government responsibility for health at the Federal, State and local levels. There are constitutional limits on the Federal Government's role in the health care field and the primary responsibility for the planning and provision of health services lies with the State and Territorial Governments. Each of the governments of the six States and the Government of the Northern Territory has major operational responsibility for the development and delivery of its own health care services, and in determining priorities for the development of health services in its State or Territory. The actual provision of health services is shared by governments, community organisations and practitioners in private practice.

The Federal Government is concerned primarily with the formation of broad national policies, and influences policy-making in the health services through its financial arrangements with the State and Northern Territory Governments, the provision of benefits and grants to organizations and individuals and its supervision of health insurance. However, this structure of shared responsibilities produces a mixture of local priorities which precludes the formation of a completely unified strategy for the health services in Australia.

The Federal Government's national Health Insurance Plan - Medicare - came into effect on 1 February 1984.

Under the Program, all Australians have equal access to basic health care, which includes:

- payment of medical benefits representing 85% of the Government's Schedule for each medical service with a maximum patient moiety of $10 of any one service. Where a doctor is willing to accept 85% of the scheduled fee for the service, the Government can be billed directly and the patient pays nothing; and

- inpatient and outpatient treatment at public hospitals by hospital-employed doctors without charge.

Medicare is financed in part by a 1% levy on all taxable incomes with low income cut-off points below which no levy is paid and a ceiling on the maximum amount payable in levy by an individual or family.

This universal system ensures that the major users of health services, women and their children, are covered for health care. Under previous schemes low income women in particular have risked going without because of the direct cost of the fee-for-service or the indirect cost of health insurance premiums. Medicare cards must be presented to obtain the refund. This may inhibit women and girls covered through a family card seeking certain forms of health care because they are unable to afford the payment and do not wish to reveal their visit to the nominated card-holder (husband or father) in order to claim the benefit payable. This may be particularly relevant to the provision of family planning services. Individuals aged 15 years or more may apply for individual enrolment and therefore have their own cards for making claims. As already mentioned, it is possible for the doctor to bulk-bill Medicare direct, so that the client does not have to pay.

Aboriginal women share the unsatisfactory health status of Aboriginals generally. Successive Governments during the past decade have recognized the urgent need to improve the environmental conditions affecting Aboriginals' health and the importance of increasing Aboriginal involvement in the design, control and delivery of health care services. The problems of Aboriginal health have been approached on a broad front through the funding of special programs including preventive, promotive and curative components and Aboriginal involvement.

Expenditure on Aboriginal health programs has grown from $4.4 million in 1972-73 to $30.6 million in 1983-84. There are now 33 community based and administered Aboriginal medical services which received funds totalling $8.8 million for the provision of medical services in 1983-84. In addition, the Federal Government maintains a five year $50 million Aboriginal

Public Health Improvement Program commenced in 1981-82 to provide Aboriginal communities selected on a health priority basis with capital works needed to alleviate demonstrable ill health. Under this program particular emphasis is given to achieving secure, safe and adequate water and waste disposal systems and to providing electricity to Aboriginal communities.

The state of mental and physical health of many migrant women reflects their total lifestyle which often involves considerable pressures resulting from poverty and the different language of the host society. Nowhere is communication more vital yet there are few bilingual health workers and interpreting provisions, although much improved, are never entirely satisfactory. Women who urgently need medical attention out of office hours are likely to find that the only translators available are their own children or hospital cleaners. Often the problems of translation are not simply linguistic but also conceptual. In the past different models of childbirth have resulted in confusion and distress. Now there are special programs to explain Australian hospital and obstetrical procedures to pregnant women with little or no command of English.

The National Health and Medical Research Council is the major source of funding for basic medical research. Its advisory committees also discuss and make recommendations relating to the specialist fields of public health medical research and medical practice in the general health field. Funding for projects is granted on the grounds of excellence, judged by peer review. The Council may stimulate research in certain directions through workshop discussion or requests to particular researchers, but overall funding is constrained by the excellence criterion. The Council itself has a membership of twenty-eight, of whom three are women. Research funding is also available through the Health Services Research and Development Grants Program of the Federal Department of Health. Under this program projects are directed towards evaluation and development of health service delivery covering medical practice in the broadest sense, rather than clinical research.

The Department of Health has a Specialist Adviser on Family Planning and Women's Health. There are four programs administered by the Department of Health where beneficiaries or participants are predominantly women. These are the Home Nursing Subsidy Scheme, the States Grants (Paramedical Services) Scheme, Nursing Home Benefits, and the Family Planning Program. The Domiciliary Nursing Care Benefit recognises the major caring role of women.

The labour force in health occupations is mostly female; at the 1981 Census, the proportion of females employed in health occupations was 73% compared with 37% females in the overall employed labour force. The majority of nurses were female (93%) and in a number of paramedical occupations such as physiotherapists and other therapists the proportion was over 80%. However, only 19% of medical practitioners, 11% of dentists and 17% of optometrists were women. Thus very few women are involved in providing the major medical services recognised under the medical benefits scheme.

There are many questions which can be raised when considering the relationship between women and the health care system. One area of particular importance is the relationship between women and the professional providers of health care services. For example, recent studies such as those by Broom and Mant in Australia and in other western societies, suggest that some courses of treatment prescribed for women, including the use of tranquillisers and anti-depressants or referral for psychiatric treatment, reflect a tendency to label as deviant female behaviour which does not confirm to social roles expected by the service provider.

The most recent national figures available on use of health care services come from a survey carried out by the Australian Bureau of Statistics in 1983. Preliminary figures show that females were more likely than males to have consulted a doctor in the previous two weeks and a higher proportion of females had taken medication such as pain relievers, vitamins, heart/blood pressure medicines and tranquillisers in the same time period. An earlier national survey (1977-78) showed higher hospitalisation rates for women.

In the case of women with disabilities, discrimination in health care is frequently associated with the application of an inappropriatge and over-protective medical model to women who are handicapped but not ill. Alternatively, in the early stages of progressive disabilities, such as multiple sclerosis, women's symptoms are much more likely to be dismissed as neurotic than those presented by men. In 1981-82, the National Women's Advisory Council set up a series of consultations with disabled women and girls. These revealed that disabled women experienced special problems which were a consequence of their being both female and disabled. Financial problems were clearly a priority issue. women who were injured in acidents were likely to get lower compensation payments than men because it was considered that they had less earnings capacity to lose. Similarly, the education of disabled girls was often neglected relative to that of disabled boys because it was felt that they would have less need to be financially independent in future.

For many years rehabilitation facilities and a range of special services and grants were restricted to persons who had the possibility of entering or returning to the paid labour force. This clearly discriminated against women working in their homes on domestic duties and made life especially difficult for women with children to care for. The position is now improved but it is still often the case that the needs of disabled women are somehow seen as being less urgent than those of disabled men. Women who manage households receive no mobility or housekeeping support, although people whose workplace is outside the home may be eligible for such support.

Problems of transport and access increase the isolation experienced by disabled women and girls and reduce their opportunities for becoming integrated members of the community. Women are usually less free than men because of family responsibilities to move around, so that any further restriction imposes an additional limitation on women and girls.

Some problems with aids and appliances are specific to women, including the need for acceptable prostheses following mastectomy and problems with menstruation and incontinence. Other difficulties are exacerbated by being female. They include problems of lesser physical strength, such as how to hold and handle a baby from a wheel chair; or problems associated with female roles such as the need for special kitchen and household appliances.

The accepted notion of women's care giving role in marriage and in society often creates difficulties for disabled women if their condition deteriorates so that they need extensive care themselves. Women who are wives and mothers are expected to be able to perform a wide range of physical maintenance tasks from laundry to child care. Yet many disabled women are unable to perform at least some of these tasks. Instead they may require personal care and assistance with dressing, bathing, or eating; thus demanding a caring role from their families instead of providing it. Even between adults, the survival of old stereotypes means that the sight of a woman feeding a man is less shocking than that of a man feeding a woman.

Family Planning Services

Australia supports the principles of family planning contained in the World Population Plan of Action of 1974. The Federal Government stated (at the 1984 World

Population Conference in Mexico) that it is the right of all people in Australia to decide in a free, responsible and informed way the number and spacing of their children, and that it is also a basic human right that all persons should have access to adequate means to carry out their decisions. All Federal Governments since 1973 have had a policy of support for family planning. The objectives of the policy give emphasis to the health aspects of the timing and spacing of pregnancies and the rights of couples to determine their desired family size; to improving the quality and range of family planning services; and to carrying out research into the social, medical and demographic aspects of family planning.

Family planning is considered to be one of the major positive and cost effective influences on the health of women and children and on the improvement of the expectation of life at birth. Australian women have long used family planning to determine the number and spacing of their children. This practice has been a major factor in the reduction of maternal and infant mortality - along with improved living standards and improved maternal-child health care.

The Commonwealth Government's policy is to promote family planning to enable people to make rational and informed decisions regarding human fertility. This policy recognises the need to extend family planning information to all groups in the community, including those who are socially or geographically isolated.

Most services related to family planning are provided by private medical practitioners, either in general practice or through clinics. The costs of consultations are therefore covered by Medicare provisions. The cost of oral contraceptives is subsidised through the Pharmaceutical Benefits Scheme. In all States and Territories oral contraceptives are only available on the prescription of a registered medical practitioner. The prescription may be dispensed only by a pharmacist or a registered medical practitioner. An intra-uterine contraceptive device (IUCD) is inserted only by a medical practitioner. The cost of the device is not covered under the Pharmaceutical Benefits Scheme. Other contraceptive supplies such as condoms, diaphragms and various types of spermicides do not require a prescription for supply and are available over the counter at pharmacies. The cost of these is not subsidised in any way.

Problems of distance and shortages of resources cause difficulties in maintaining programs directed towards women living in remote areas. However, such women have access to medical services through the Royal Flying Doctor Services and various State aerial services as well as the usual services which are available in country towns. Attempts are being made to improve the professional expertise of health personnel in remote areas including the staff of Aboriginal Medical Services in each State.

Although contraceptive advice is available to men and women alike, contraception is generally perceived as a female responsibility. Unfortunately no national figures on current contraceptive usage are available. Data from two Melbourne surveys of married women (1977) and one Canberra survey covering married men and women (1978) carried out for the Demography Department of the Australian National University show that at least one third of married women take the oral contraceptive pill; this figure rises to about two thirds for recently married women aged under 25 years. These data also suggest that sterilization is being increasingly used for birth control after completion of the desired family size; nearly one third of Melbourne wives married for at least six years and of Canberra married men and women aged 18 to 49 were using sterilization as their current method of contraception.

Figures from an earlier Melbourne survey show that use of the condom as a main method of contraception has reduced considerably from around 20% in the early nineteen fifties to under 5% in 1977-78. IUD usage was then at a level of between 10% and 15%. The continuing acceptance of the pill, particularly by younger women and the preferance for tubal ligation over vasectomy seems to indicate that family planning continues to be seen as a woman's responsibility.

The Federal Government provides financial assistance for two national family planning organisations, the Australian Federation of Family Planning Associations and the Australian Catholic Social Welfare Commission which co-ordinates and promotes programs of natural family planning methods acceptable to the Catholic Church.

The State and Territory Family Planning Associations have received subsidies for clinical services from the Federal Government for a number of yuears. With the introduction of Medicare, the Associations were directed to cease charging for standard services and the grants were increased to offset the loss of revenue so that no charges are made to clients for service delivery. However, the F.P.A.s provide only a very small proportion of health care services related to family planning in Australia.

The Australian Government does not have quantitative targets for family planning. However, it recognises that, because of social or geographical disadvantage, some groups of women may not have adequate access to family planning information and services and that particular attention should be paid to reaching those women. They include rural women, Aboriginal women, low income and migrant women and adolescents.

Organisations working with young women and migrant women have been established in the past eight years, with Federal Government financial assistance. The Action Centre in Melbourne was established as a pilot project in 1976 as an informal drop-in centre directed at youth. It provides a non-judgemental non-moralising atmosphere where young people can obtain advice on a range of problems relating to contraceptives, human sexuality and social problems. It is now an established centre administered by the Family Planning Association of Victoria. The organisation: 'Women in Industry: Contraception and Health' developed as a community organisation in 1977 in Melbourne and has received funds since 1980 to carry out a factory-based education program in family planning and women's health among migrant women, using multi-lingual health workers.

There is some concern that individual medical practitioners may be unsympathetic to providing services to some clients or that they may not provide certain procedures. Such attitudes impose restrictions on access to services, particularly for women living in rural areas with few medical practitioners, or for young people.

The dissemination of information on family planning and contraception is legally accepted in Australia. However, there are various laws throughout the States which restrict advertising, display and sale of contraceptives. Scheduled therapeutic products, which includes the pill and IUDs, may only be advertised in professional journals. Although advertisements for other forms of contraception are no longer generally considered obscene publications, in some States certain types of advertising may still be questionable under the particular State legislation. Some national magazine advertisements for condoms have been run. As yet there has been no radio or television advertising.

Abortion has been included on the list of scheduled medical services eligible for medical benefits since 1974. There is still a responsibility on doctors performing abortions to fulfill the legal requirements of the States as abortion laws fall within the jurisdiction of the various States. Since 1969 legal changes and common law judgements in several States have laid down the conditions under which abortion may be lawfully performed. In South Australia and the Northern Territory the Act distinguishes between unlawful and lawful abortions. An abortion is lawful if in the opinion of two medical practitioners the continuance of pregnancy would involve greater risk to the life or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated, or if there is a substantial risk that the child would be born seriously handicapped. The termination must be performed by a qualified medical practitioner in a hospital registered for the purpose. It has been pointed out that by setting out the circumstances in this way much of the possible uncertainty attaching to interpretation of the law by the courts has been removed. However, it is not necessarily easier to obtain an abortion in South Australia than in other States with practical rulings on this matter. In both New South Wales (1972) and Victoria (1969) judicial interpretations have accepted the grounds of serious danger to life or physical and mental health, and the ruling of Justice Levine in New South Wales extended the serious danger to include economic, social or medical grounds. In Queensland, Tasmania and Western Australia, the law relating to abortion is governed by sections of the relevant State Criminal Code. In these States 'a person who, with intent to procure the miscarriage of a woman......... unlawfully administers.......any poison or other noxious thing, or uses force......, or uses any other means whatever, is guilty of a crime'. A woman who attempts to procure her own miscarriage is also guilty of a crime. However, if the operation is performed in good faith and with reasonable care and skill, if it is for the benefit or preservation of the mother's life and if the operation is reasonable, then it is not unlawful. In Queensland and Western Australia the provisos 'having regard to the patient's state at the time and to all circumstances of the case' are included. Unlike New South Wales and Victoria, there are no court decisions which would establish the possible scope of lawful abortions as defined by these conditions.

Free-standing abortion clinics have been established in New South Wales, Victoria, Queensland and Western Australia. There are no such clinics in South Australia, the Northern Territory, the Australian Capital Territory and Tasmania. As noted above, all legal abortions in South Australia and Northern Territory must be carried out in registered hospitals; the relevant ACT ordinance does not permit abortions to be carried out except in hospitals. The clinics provide counselling and support services and generally terminations are carried out on a day admission basis. As all abortion clinics are located in the capital cities (or, in one case, in a large provincial town), access to termination facilities may be difficult for women living outside these centres. In addition, hospitals and individual doctors vary considerably in the services provided and in two areas at least, the ACT and Tasmania, nearly all women wanting a termination have to travel interstate.

In July 1984 the National Conference of the A.L.P. supported the particular right of women to choice of fertility control and abortion. This declaration is now included in the Party's platform. However, at the 1982 Conference and again in 1984 it was decided that the matter of abortion could be freely debated at any State or Federal Forum of the A.L.P. but any decision reached would not be binding on any member of the party. The Party's Rules state that this decision remains in force and therefore the right remains to register a conscience vote on any proposed legislative changes relating to abortion.

The question of abortion is not included in the other major party platforms; individual members may register a vote according to their conscience. The Australian Democrats acknowledge the rights of a woman to exercise control over her own body, and support a policy of providing adequate information to assist her in a decision for or against abortion.

At State level governments have funded family planning associations and other organisations to provide programs related to family planning information in schools and to train teachers, health professionals and other groups in the delivery of services, clinical and educational, in family planning and the broader field of sexuality. In all States except Queensland, Education Departments have approved school curricula covering human relationships, personal development, health education or living skills generally; education and information programs relating specifically to family planning have been incorporated into these wider programs. Such programs are normally undertaken by members of the regular teaching services. In Queensland, such programs can only be provided outside normal school hours, and parents must be present.

The Federal Government also provides funding for education and training programs and for a continuing research program into social, medical and demographic aspects of family planning.

Article 12.2

> Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

As explained above the Medicare scheme and the possibility of bulk-billing the Government for direct payment means that maternity services are available to all women irrespective of marital status and free of cost where necessary.

The number of deaths from complications of pregnancy, childbirth or puerperium has been less than 30 a year since 1972. In 1982, the most recent figure available, there were 20 direct obstetric deaths, around 9 per 100,000 births. In 1935 the rate was 560 maternal deaths per 100,000 births. The obstetrician Dr Llewellyn-Jones has attributed the dramatic fall to a number of factors, including better training in obstetrics of medical and nursing staff, attendance for antenatal care by the great majority of women, availability of blood transfusion services and control of 'childbed' infection with the availability of antibiotics.

Maternity services in Australia are very similar to those in other western industrialised countries. Nearly all births take place in hospital under the care of specialist obstetricians. Procedures such as ultrasonography, amniocentesis, foetal monitoring, epidural anaesthesia, induction of labour and caesarian section are readily available for monitoring the course of the pregnancy and for intervention when complications arise which affect the wellbeing of mother or baby. From the medical point of view these developments ensure that childbirth is safe for both mother and child.

However, as in other countries with a similar history of hospitalisation for childbirth, from the 1950s onwards there were increasing numbers of complaints that psychological aspects of the experience giving birth were being ignored. Some women in hospital felt they were not given sufficient information about the procedures to be used and that the routines imposed for the sake of hospital efficiency were dehumanising for the mother and effectively shut out the rest of the family from any participation.

Hospitals did make some response to these pressures, and changes in maternity care and practice occurred. A few hospitals have established 'birthing centres', where the delivery takes place in surroundings furnished like a domestic flat and family and friends can wait with the mother. The centre is close enough to the main hospital obstetric services so that appropriate medical help and special equipment are easily available in an emergency. Many other hospitals now provide less formal surroundings in the delivery and post natal wards, and routines have been relaxed. The presence of partners during labour and at the birth is accepted, if the woman requests it, and antenatal classes in preparing for childbirth are encouraged.

In 1961 a group of Melbourne mothers with experience of the psychoprophylactic method of childbirth formed an association to promote this method and make it known to women and professional workers in the field. During the 1960s similar groups were set up in other States, under the general name of Childbirth Education Associations. The organisations provide pregnancy fitness and preparation for childbirth classes, with trained physiotherapists as leaders. The aim is to prepare a woman to take an active, responsible role in the birth of her baby, and to give couples confidence and competence to cope with childbirth and parenting experiences.

The Nursing Mothers Association began with the activities of a group of concerned mothers in Melbourne. From that beginning in 1964, a network of 551 local groups throughout Australia has been established. The major activity is mother-to-mother support, where trained, experienced mothers provide counselling and support for new mothers who wish to breast feed their babies. The local groups also have informal meetings with discussion or guest speakers on topics relating to parenting. The Association produces booklets and other information materials to promote the value of breast feeding.

Small scale surveys of mothers in different areas indicate that the decline in breast feeding which was noticeable between 1950 and the early 1970s has now reversed, and a modest increase has been evident in numbers choosing to breast feed at birth and maintaining exclusive breast feeding to up three months after. There are also a number of groups which support mothers who wish to give birth at home. Doctors and midwives work with these community groups. However, the costs of medical attendance at home births is not covered under health insurance.

At the same time that some women are concerned about experiencing too much medical intervention during pregnancy and childbirth there are still groups of disadvantaged women who stand in need of more services rather than less. Aboriginal women are especially at risk because many live in remote rural areas, with limited sanitary or hygiene facilities and are already in ill-health or at high risk due to poor nutrition and a high number of previous pregnancies. The services available to them are limited and often inappropriate to their specific needs because they are concerned with medical solutions to what are essentially long-term socio-economic problems.

The Australian Government is particularly concerned with the provision of pre-natal and post-natal assistance to the Aboriginal community. This is reflected in the allocation of resources within Aboriginal health programs. There is a general requirement for all nursing staff and Aboriginal health workers posted to remote areas to have midwifery training. Aboriginal health programs include the operation of regular clinics for mothers and infants, educative and promotive programs, and at the discretion of medical staff, evacuation of pregnant women to hospitals for delivery.

Migrant women from non-English speaking backgrounds are also poorly served by existing medical and maternity services. Misunderstandings arise not simply because of language differences but also as a result of marked cultural diferences in what is perceived as approppriate behaviour in various health contexts.

Australia is amongst the world leaders in the new fields of reproductive technology. Infertile couples can now be enabled to parent children through the procedures of:

- artificial insemination or
- in vitro fertilisation

These procedures may involve the use of donor gametes, i.e. one or both members of the couple is not a biological parent. All States have programs offering in vitro fertilisation and artificial insemination. The IVF procedure has up to now achieved a pregnancy rate of about 15% of those treated. About half these pregnancies result in a live birth. The use of these technologies involves the allocation of substantial community resources in funding, facilities and staffing. Thus many questions of public policy relating to this use of resources have been raised in recent years. All States have established committees to enquire into issues relating to the techniques. A committee chaired by Justice Asche of the Family Court of Australia has reported to the Family Law Council and the Federal Attorney-General. The major areas of interest so far have been:

- legal issues such as status of the children born as a result of the procedures and the information to be available through birth records
- medical issues such as the ethics of the use of embryos for experimentation and the possible technical developments in the future, including sex predetermination.

These new techniques may be considered as a 'service in connection with pregnancy' as cited in the Article which should therefore be made available to those women who have been unable to become pregnant when they wish to do so. Women in that position have welcomed the hope that the techniques bring. However, other groups question the resources which are devoted to the program, the rigorous selection procedures for participant couples including social as well as medical factors, and the financial burden on participants.

Article 13

> States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (a) the right to family benefits
>
> (b) the right to bank loans, mortgages and other forms of financial credit
>
> (c) the right to participate in recreational activities, sports and all aspects of cultural life

Article 13 (a)

> The right to family benefits

Child endowment was originally introduced in 1941. It provided a small but guaranteed weekly payment towards the costs of a child for a family. The rate of payment was the same for all children except for the first. In the first years of operation, no payment at all was made for the first or only child. From 1950, a benefit was paid for this group but at a rate half that for the second and subsequent children. In 1976, a system of weekly family allowance payments was introduced, which replaced both child endowment and income tax rebates for dependent children. Since May 1979 the payment has been made on a monthly basis. The rates of payment of family allowance vary according to the child's position in the family, with the lowest rate for the first child, rising to the highest rate for the fifth and subsequent children.

Family allowances are a non-means-tested payment which is non-taxable and is not regarded as income for the assessment of pensions, benefits or other social security allowances. People who have custody, care and control of a child or children under 16 years of age may receive family allowance. Payment is normally made directly to the mother. For many mothers who are not in the paid labour force family allowance may well be their only direct source of income.

Article 13 (b)

> The right to bank loans, mortgages and other forms of financial credit

At the time of ratification of the Convention many financial institutions in Australia did not provide their services on a basis of equality to men and women.

Section 22 of the Federal Sex Discrimination Act 1984 provides that:

(1) It is unlawful for a person who, whether for payment or not , provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's sex, marital status or pregnancy -

   (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;

   (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or

   (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

(2) This section binds the Crown in right of a State.

'Services' are defined in the Act to include services relating to banking, insurance and the provision of grants, loans, credit or finance.

Women find it harder to get loans because of a stereotyped expectation that just because of their sex they will have lower incomes and be less reliable in repaying money. Australia has been a country where women have been especially subject to assumptions that financial matters are masculine matters. A decade ago wives consulting doctors had to battle to have the bill made out to themselves rather than their husbands. Married women often have no independent credit rating of their own, - if their husbands have a poor rating this is immediately recorded when wives establish their own ratings. However, the husbands's or couple's good rating is not automatically transferred in the same way.

The New South Wales Anti-Discrimination Board started an investigation into women and credit in 1982 after the Counsellor for Equal Opportunity had received 63 formal complaints from women concerning sex or marital status discrimination in credit or finance contrary to State anti-discrimination legislation.

Analysis of complaints suggest that -

- marital status does affect many lending decisions
- sex of applicant determines some decisions
- assumptions about male household heads are made in some decisions
- some apparently fair, neutral criteria discriminate indirectly against women.

Complaints to the Victorian Commissioner for Equal Opportunity also show that women continue to suffer marked disadvantages (both direct and indirect) in the availabililty and terms of credit, finance banking services and insurance.

The anti-discrimination legislation of the Commonwealth, New South Wales, South Australia, Victoria and Western Australia all allow discrimination on the grounds of sex or marital status in terms or conditions appertaining to a superannuation or provident fund or scheme. The Federal exemption may be repealed by regulation, but such a regulation may not come into operation within two years after the commencement of the Federal Act. All these Acts also permit discrimination on the grounds of sex with respect to the terms on which an annuity, a life assurance policy, a policy of insurance against accident or any other policy of insurance, if the discrimination is based on reliable actuarial or statistical data and the discrimination is reasonable having regard to this data and other relevant factors.

At the request of the Attorney-General the Human Rights Commission is conducting a major inquiry into sex discrimination in superannuation and insurance to determine whether amendments to the Sex Discrimination Act are required.

Overall some changes are underway. Although there are no women's banks or comparable institutions in Australia some general banks now have specially designated officers to advise women who wish to use their services and issue specialist publications discussing women's financial needs and ways of meeting them. One of the largest credit unions has recently announced a special policy to try to put an end to the bias shown against young women in obtaining unsecured loans from financial institutions. The credit union provides loans to women for cars, home deposits, travel, furniture and bond money thus opening up options previously reserved for men or for women from affluent families.

Article 13 (c)

> The right to participate in recreational activities, sports and all aspects of cultural life.

(1) Sports

The view of the Australian Government is that this obligation is satisfied where women are free to take part in whatever type of sports they wish. The Article does not require mixed participation or equal prize money, and is not infringed by practices involving separation of men and women in recreational and sporting activities.

However, once the issue of Australian women's participation in sport is raised for consideration, it is clear that there are major inequalities between men and women embedded in media presentation, administrative structures, facilities, school curricula, funding, prize money and financial support of all kinds. Until very recently, even women attending sporting functions as spectators could be disadvantaged by the allocation of separate and inferior access to facilities such as bars and grandstands.

The Federal Sex Discrimination Act states that it is not unlawful to exclude persons of one sex from competitive sporting activities in which strength, stamina or physique of competitors is relevant. This section does not apply in relation to the sporting activities of children under 12. It is also specified that the section does not apply to coaching, umpiring and refereeing, administration or participation in a prescribed sporting activity.

A number of sporting activities, particularly at community level, are organised through clubs. Section 25 of the Federal Sex Discrimination Act relates to discrimination concerning club membership. However, clubs with membership of one sex only are exempt. It is also stated that if not practicable, benefits need not be available simultaneously or to the same extent to both men and women, provided that the same or equivalent benefits are available for separate use or men and women each have a fair and reasonable proportion of the useof the benefit. As yet there has been no testing of these provisions. One interesting test will relate to golf and bowls. Many golf and bowls clubs have had a long standing ruling that women may not play at weekends, on the grounds that men in full-time employment can only play at weekends and should therefore have priority at that time. Now that over 40% of women are employed during the week and also many male players are retired from full-time employment this ruling may not be seen as providing fair and reasonable use.

Sports play a very important role in Australia's national life. At the national and international level, successful individuals and teams have considerable prestige and media coverage.

Children take part in a wide range of team and individual sports from an early age, and parents give considerable time in voluntary work for their children's sporting organisations. Many men and women also give considerable assistance to their own sporting organisations. However there is evidence that even at the level of the early school activities, girls' sports are disadvantaged compared with boys. For example, in the most populous State, New South Wales, the Primary Schools Sports Association offers eighteen (funded) sports at regional and state levels, ten of which are for boys only, four are for girls only and four are mixed. The same is true of high school sports. The boys' sports association offers twenty-three sports and the girls' eighteen at the regional and state levels.

In 1983-84 the Victorian State Government gave $100,000 for junior Australian Rules football. In the same year the Victorian Netball Association received $15,000 for netball in schools and $16,000 overall from the State Government. The proportion of girls playing netball is at least as great as the numbers of boys playing Australian Rules.

Examples are also available at the level of adult sport. When the Australian Athletic Union sent nine men and six women overseas to the world cross-country championships, only the women had to find their own finance. A newspaper article reported that the Australia-England

1984 women's cricket test series had finally found a sponsor for the fifth match in the series, which would also celebrate the first recorded women's cricket match, played in the same place, Bendigo, in 1874. The sponsorship of $4,000, it was said, would remove worries about accommodation bills for the players. This compared very unfavourably with the sponsorship and marketing strategies available for the men's test cricket series during the same season.

The Commonwealth Department of Sport, Recreation and Tourism is responsible for formulating, co-ordinating and providing policy advice to the Minister. The Department administers a number of programs which provide funding for sports development, assistance for sport and recreation for disabled people, development of Water Life Saving, assistance for participation in Commonwealth and Olympic games, development of elite athletes and, on a dollar for dollar basis with the States, development of international standard sports facilities.

However, the Department currently has no specific policy on the participation of women in sport. In June 1984, the Minister Assisting the Prime Minister on the Status of Women and the Minister for Sport, Recreation and Tourism announced the establishment of a joint working group on women in sport - the Working Group investigated and made recommendations to the Government on a number of issues including:

- the adequacy of current media coverage of women's sporting activities
- activities of the media to women's sporting activities as potential subjects for both high profile and regular media coverage
- options for increasing media interest in and coverage of women's sporting activities
- problems met by women's sporting bodies in areas such as sponsorship, administration, promotion, funding and access to facilities.

Both Ministers reaffirmed the Government's commitment to improving the general awareness of the media and the community to the accomplishments of women in sport.

One major conclusion of the Working Party's report of April 1985 was that the coverage of women's sport by all media in Australia at the time of inquiry was grossly inadequate. This assessment was based on analysis of the submissions received by the Working Party, and on a survey of print media coverage during one week in May

1984. The survey showed that on average over two thirds of the sports page space was devoted to racing (reports, results and fixtures) and the various codes of football, in particular Australian Rules. A similar study in 1980 had shown that 80% of the space was occupied by these sports. In 1980 about 2% of sports page space was given to women's sports; in 1984 it had decreased to 1.3%.

The Working Party argued that the subconscious 'message' from the way in which women in sport were presented, and not presented, was that women's sporting activity was not intrinsically as worthy or important as men's sport. This was the basis for general attitudes within the media and other key bodies relating to sport which devalued the sporting experience where women were involved.

The Working Party pointed out that women in sport themselves must address the questions of increasing their administration and public relations skills so that they can compete effectively for media attention and for recognition by decision making bodies determining priorities, e.g. for funding. It was recommended that a Women's Sports Promotion Unit be established for a period to provide direct and practical assistance to all women's sporting organisations and groups, in these matters amongst others. The Report of the Working Party is being considered.

The Federal Government through the Commonwealth Schools Commission is funding a project on 'Girls Achievement and Self-Esteem - the Contribution of Physical Education and Sport'. The Project is based in South Australian schools and will run for two years, 1985-1986. The Project is publishing a regular Newsletter, which will carry reports from the South Australian schools core schools, and also from schools in other States working on the same issues.

(2) Cultural Life

Established in 1975, the Australia Council is the Commonwealth Government's chief funding and policy making body for the arts. Broadly speaking the Council's brief is to formulate and carry out policies to help raise the standards of the arts in Australia, to enable and encourage more Australians to become involved in the arts and to make Australians and people in other countries more closely aware of Australia's cultural heritage and achievements. Artists and arts organisations are assisted financially by the Council under policies developed through its specialist art form boards in Aboriginal Arts, Community Arts, Crafts, Literature, Music, Theatre and Visual Arts.

In 1983 the Council published Women in the Arts, a study of the obstacles which women artists and artworkers encounter in various fields and which limit their opportunities as practitioners and administrators. As a follow up the Council has moved to specific proposals for action setting out an official strategy to improve the situation of women working in arts fields.

First, the Council and Boards propose to include among their criteria for assessment of all arts organisations' applications, and as a specific guideline for major organisations, the development of equal opportunity programs relating to employment, acquisition of works, repertoire selections, etc. (Major organisations are those which receive a general grant from the Australia Council of $100,000 or more per annum.)

Major arts organisations funded by the Council will be asked to report, in their annual grant applications, on their progress towards equal opportunity for women. The Council will review overall progress by these organisations after five years.

Secondly, all major arts organisations are urged to review the representation of women on their governing bodies, with a view to working towards equal opportunity in this respect if it does not already apply.

Thirdly, the Council and Boards encourage arts organisations to adopt, so far as is feasible, alternative performance schedules or opening hours more compatible with the needs of women, in their presentation of activities.

The Council has also issued guidelines on the use of non-sexist language in Australia Council publications, documents and advertisements for both external and internal use.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

Australia is a highly urbanised country. Some 70% of the total population lives in the national capital, the six state capital cities and four other cities of 100,000 or more persons. Over three-quarters of the continent averages only 0.1 person per square kilometre. It can be understood that those who do live in the more remote areas often live very isolated lives. Facilities in the rural areas are often rudimentary. Thus, for example, water supplies to many towns and small settlements throughout Australia are of low quality and can at times fall short of the World Health Organisation standards for drinking water. The 1981 census showed that only 14% of the population lived in rural areas. This proportion reflected a marginal increase in the percentage of rural dwellers since 1976 which resulted in part from moves to the rural areas by persons seeking alternative lifestyles but also from retirements to non-urban coastal areas.

There has been some local debate as to the applicability of Article 14 to the Australian situation. The report of the working group on the drafting of the Convention makes it quite plain that what is intended is equality between men and women in rural areas and not between women in rural and urban areas. The discussion also emphasized the importance of recognizing the 'significant roles rural women play in the economic survival of their families including their work in the non-monetary sectors of the economy'.

Although women have always played a significant role in Australian agriculture, there has been very little recognition of this fact. Unlike neighbouring New Zealand, Australia does not have a network organization specifically for women in agriculture. Representation of women on the general bodies representing various groups of agricultural producers generally runs at 1 or 2% of the total.

However, despite the small proportion of the Australian population which lives in the rural areas the Country Women's Association, with 80,000 members, is the largest single women's organisation in Australia. Founded in

Western Australia in 1924, even at the first conference the issues covered included making married women guardians of their children and including the wife's name in property agreements. The central aims of the Association are to improve the welfare and conditions of life of women and children living in the country and to raise the standard of homemaking and to develop agriculture. The Country Women's Association is not just for women whose families live on the land, it is for all women living in rural areas including those who live in isolated townships and those who are employed in the rural areas but working in non-agricultural occupations such as teaching, nursing or accounting.

It is extremely difficult to provide a statistical assessment of the labour inputs of women in the rural economy. One assumption that has been put forward is that until the second world war women represented 10% of the total rural labour force. This would have been equivalent to a participation rate of 30% for women aged 15-64 in the early years of the century. Since the war women have increased from one sixth to one third of the rural labour force. This has been the consequence of a more equal balance between the sexes in the rural areas; a greater willingness to recognise women as members of the rural labour force and of legal changes in the way in which farm enterprises are operated. There has been a marked shift away from sole ownership of farms by men to husband-and-wife partnerships and private companies. Between 1971 and 1976 the proportion of women in this industry doubled from 16 to 31%. In the fifteen year period from 1961 to 1976, self-employed men and male employers in rural industry declined by one-third, while the women trebled in number. Nine out of every ten of the latter reported in the census that they worked in farming for 35 hours a week or longer.

Census figures since 1933 show a downward trend for males who are self-employed or employer primary producers on the one hand, and for males who are farm employees on the other. The same figures show a continued rise for females in these same categories over the same period. In the 1933 census there were about 27 men for every woman in the occupational status in primary production. By 1954 it had dropped to a ratio of 16 to one, and the latest census figures show a ratio of three men to each woman in primary production. It is clear from the figures for farm employees that the increase in the numbers of women in agriculture is not attributable solely to nominal or real partnerships. There was a decrease of over one third in the number of male employees over the same period that there was an increase by a multiple of six in the number of female employees in primary production. However, it must be noted that the average weekly earnings of full time women farm workers represented only 66% of what full-time males were earning in that occupation.

TABLE 14.1

Employment Status of Primary Producers at the Census

Australia, 1933-81 Persons ('000)

Year	Males			Females		
	Self Employed and Employers	Employees	Total	Self Employed and Employers	Employees	Total
1933	293.5	200.1	493.6	15.2	3.2	18.43
1947	278.9	148.2	427.1	13.8	8.1	21.9
1954	279.2	154.2	433.4	19.6	7.6	27.2
1961	256.1	139.1	395.2	28.1	7.6	35.7
1966	230.8	138.4	369.2	34.5	20.3	54.8
1971	194.5	141.3	335.8	38.5	15.3	53.9
1976	179.4	116.8	296.2	83.6	15.5	99.1
1981	171.5	124.4	295.9	74.6	19.7	94.3

SOURCE: Census Results 1933-81 - Australian Bureau of Statistics

TABLE 14.2

Employment in Agricultural Industry, Australia, 1964-83
(Figures for May each year) (a)

Year	Single Females	Married Females	Total Females	Total Males	Total Persons	Females as Percentage of Total
1964	14.0	34.1	48.1	387.2	435.3	11.0
1965	15.3	39.1	54.5	378.5	432.9	12.5
1966(b)	14.2	40.1	54.3	370.9	425.2	12.8
1967	11.9	43.7	55.6	369.8	425.4	13.1
1968	11.9	41.2	53.1	362.0	415.1	12.8
1969	11.8	41.3	53.1	361.9	415.0	12.8
1970	14.2	49.9	64.1	348.0	412.1	15.6
1971	11.6	50.3	61.8	343.2	405.0	15.3
1972	10.5	54.5	65.0	345.3	374.4	17.4
1973	10.6	54.7	65.3	305.1	370.4	17.6
1974	11.0	48.9	59.9	305.9	1365.8	16.4
1975	10.3	52.1	62.4	297.6	360.0	17.3
1976	10.7	57.1	67.8	284.2	352.0	19.3
1977	11.8	63.4	75.2	290.2	365.4	20.6
1978(c)	5.1	66.6	71.7	285.3	357.0	20.1
1979	12.9	65.9	78.8	283.1	361.8	21.8
1980	15.2	73.4	88.6	293.6	382.2	23.2
1981	18.6	82.8	101.4	293.2	394.6	25.7
1982	14.6	76.2	90.8	286.4	377.2	24.1
1983	15.4	83.8	99.2	289.5	388.6	25.5

SOURCE: Quarterly Survey of the Labour Force:
Bureau of Statistics

(a) Includes both full and part-time employment

(b) 1966 and onwards: includes aboriginal and Northern Territory figures

(c) Slight changes in sampling fields and classifications

Figures for May 1982 show that in agriculture and services to agriculture females comprised 27% of employers, 26% of self-employed persons, 19% of wage and salary earners; overall 24% of all of those recorded as working in the industry were women. Whilst women are markedly less likely to be employed in agriculture than in many other industries, the proportion of women employers in agriculture is similar to the proportion of women employers in all industries.

There are a number of factors which are responsible for the increasing employment of women in agriculture. One is a growing acceptance of agricultural careers for women. The National Farmers' Federation now recognises that 'women are better and perhaps more willing, to supply the skills required of modern agricultural production' than has previously been accepted in traditional rural communities. No longer do farm families automatically assume that whilst sons will train for careers on the land daughters will look elsewhere. In the past agricultural colleges did not admit female students and when they were first admitted there was considerable resistance from young men.

A varied range of agricultural training courses ranging from 'on the job' training to university degrees is now open to persons of both sexes. Since 1974 in Victoria it has been possible to do an apprenticeship in farming - an initiative which has significantly increased the number of farmers' daughters training to work on the land.

Another area of farm work which is being opened up is that of farm secretary. A farm secretary's responsibilities include managing the farm office, paying wages, assisting with budgeting, keeping stud and statistical records and assisting with the practical operation of the farm management. This is already becoming stereotyped as an appropriate job for women. Thus, for example, at one college offering a two-year associate diploma in farm secretarial studies women make up a major proportion of those doing the diploma but less than 10% of those taking the general farm management course. However, whilst 27% of clerical work in the agricultural industry is performed by women only 5% of women workers in agriculture are engaged in clerical occupations.

Other factors in the increasing role played by women in agriculture include the decline in the number of non-agricultural jobs available for young women in rural areas and the impact of farm mechanization upon the physical demands of farm work. In a time of rural depression women's role in family farms becomes increasingly vital. Many women on farms usually have the dual role of farmers and housewives. They do the farm book-keeping, share long-term decision making and work at harvesting and milking. In times of depression women may manage farms alone while their husbands seek paid work to subsidise the farm income. Some women find themselves working at three jobs: as wage-earners in the local town, as domestic workers in their own homes and as farm workers on the farm because their husbands are away on shift or seasonal work. Women on family farms are moving into farm labour to replace their husbands or sons or to eliminate the expense of hiring casual labour. Thus they take up cutting thistles, wood, noxious weeds, hay carting, fencing, shearing shed hand, milking alone, handling cattle, tractor work, cow midwifery, irrigation, and general farm work. Whilst technology has removed some of the physical labour, few women have been trained in how to use, maintain or repair machinery and have to acquire such skills rapidly.

Child care is usually thought of as an urban requirment but increasing workforce participation by farm wives (whether on the farm or in local urban centres) which has almost doubled during the past decade has made child care a rural priority too. (Plight of Rural Women, National Party Women's Section, Melbourne, 1977).

Article 14.2 (a)

> States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) to participate in the elaboration and implementation of development planning at all levels;

(b) to have access to adequate health care facilities, including information, counselling and services in family planning;

(c) to benefit directly from social security programmes;

(d) to obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) to organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) to participate in all community activities;

(g) to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

In looking at specific issues relating to the rights of rural women in Australia it is important to recognise that women in the rural areas have the same legal rights as women in the urban areas. Thus, for example, the Sex Discrimination Act 1984 applies equally irrespective of whether a woman resides in an urban or rural area. Discrimination against rural women largely stems from attitudes which are often highly traditional and stereotyped and from a simple failure to recognise that women have special needs. To give but one example, post-school educational courses may be equally open to males and females but in isolated areas women may find it much harder to attend because of their lesser access to transport, the lack of child care facilities, and the masculine framework of the courses themselves.

The Government has a considerable number of special programs in communications, health, education, etc, which are addressed to the special needs of persons living in isolated areas; none of these programs is specifically addressed to the needs of rural women.

The most disadvantaged group of rural women are Aboriginal women. Their special needs have been discussed in the introduction above.

Article 14.2 (a)

> To participate in the elaboration and implementation of development planning at all levels;

There are no legal barriers to the participation of women, including women in rural areas, in the elaboration and implementation of rural development planning at both federal and State levels. However, as noted under Article 7 above women play a very limited role in local government which is of considerable importance in the regulation of many rural issues.

Article 14.2 (b)

> To have access to adequate health care facilities, including information, counselling and services in family planning;

See comments on Article 12.

Given the geographic size of Australia, there are difficulties in providing comprehensive sevices to all parts of the country. In the context of the facilities described at Article 12 above, every effort is made to ensure that women in rural and isolated areas have access to adequate health care and family planning services.

Article 14.2 (c)

> To benefit directly from social security programmes;

Women in rural areas are entitled to receive the same benefits under the Social Security Act 1947 as women in all other parts of Australia. The eligibility categories for benefits are defined by reference to income and circumstance criteria which are generally gender neutral

(See comments on Article 11.1 (e) above.)

There are also a number of benefits specifically designed for persons resident in rural and isolated areas of Australia. For example pensioners and beneficiaries may be eligible for a remote area allowance and there is also a tax rebate available for residents of specified isolated area.

Article 14.2 (d)

> To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

See comments on Article 10 above.

Article 14.2 (e)

> To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

There are no legal barriers to the formation by women in rural areas of self-help groups and co-operatives.

Article 14.2 (f)

> To participate in all community activities;

Women in Australia in both rural and urban areas have the right to participate in all community activities.

Article 14.2 (g)

> To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

See comments on Article 13 (b) above.

Article 14.2 (h)

> To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

The provision of public housing, sanitation, electricity and water supplies and transport are matters largely within the responsibility of State and Local Governments although the Federal Government makes significant financial contributions through grants to the States, particularly for road construction, maintenance and repair.

The Australian Telecommunications Commission provides telephone and other forms of telegraphic communication services to all parts of Australia. The Australian Broadcasting Corporation provides television and radio services to many rural and isolated areas not serviced by private commercial radio and television operators.

Many of the needs of rural people are met by way of special programs, such as the Isolated Children's Parents Allowance to assist parents to send their children to boarding schools, the Accommodation Assistance Scheme and the special assistance that is given to those people who need to travel from isolated areas for health services. There are, in fact, numbers of special programs for country people, including women, which try to offer some compensation for some of the difficulties involved in living in isolated or rural areas. However, it is notable that programs which are cited as being of special importance to country women are not directly addressed to women but provide for the needs of parents or those who have to care for invalid dependants etc.

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 15.1

> States Parties shall accord to women equality with men before the law.

There is equality of recognition of persons before the law in all Australian jurisdictions. This recognition is afforded without discrimination on the basis of sex.

In common with the English practice Australian statutory law has taken words importing the masculine gender to include females.

In 1984 the Federal Government adopted guidelines for a new approach to drafting legislation, aimed at eliminating sexist language. The Government accepted that drafting in 'masculine' language might contribute to some extent to the perpetuation of a society in which men and women see women as lesser beings. There were three main elements in the guidelines: the avoidance of personal pronouns by repeating the (he, she), the use of the formula 'he or she' where personal pronouns had to be used, and the avoidance of words ending in 'man' where possible and appropriate.

The new approach is operative for the drafting of new principal Acts, and new provisions for existing Acts. As resources permit, other Acts will be reviewed and amended as required. The recommended terminology has already been used in drafting the Sex Discrimination Act.

In Victoria, the Interpretation of Legislation Act 1984 provided for the masculine or the feminine gender to be used in State legislation, with the effect that either gender covers the other. The State Government has also resolved that legislation should be drafted or redrafted without reference to gender. The New South Wales Government intends to adopt gender-neutral drafting for future legislation.

All persons are equal before the courts and tribunals in all Australian jurisdictions, in the sense that all have the right to be tried or heard according to the established rules of law and evidence. This right is possessed equally by both men and women.

However, as in the other areas of Australian life non-discrimination in the formal sense does not necessarily ensure equality in procedures. Women involved in legal proceedings may suffer from the effects of sex-stereotyping. (Such stereotyping may of course also adversely affect men in some situations.) One specific result of this in the past had been the disadvantage experienced by women in division of matrimonial property consequent on divorce. Although the Family Law Act now explicitly recognises that women contribute to a marriage through keeping house, caring for children and providing support to their husbands, there are as yet no specific criteria for assessing this. Wives have found that their unpaid contribution was not rated equally with the income producing activities of their spouse. As a result the division of property would be weighted towards the man. In the past, where the assets were tied up in the form of future superannuation payments from an employment based scheme, the former wife had no claim on these if she was not married to the beneficiary at the time of payout. The Family Law Act was amended in 1983 to take account of this.

On the other hand, women are more likely to have custody of the childen of the marriage. However, the presence of young children can be a hindrance both in obtaining housing and in taking up paid employment, and there are increasing numbers of single mothers living in poverty. In August 1985 the Institute of Family Studies produced a report on the financial consequences of divorce entitled "The Economic Consequences of Marriage Breakdown in Australia". The Australian Law Reform Commission is also undertaking a comprehensive review of the Australian law of matrimonial property. It has issued a discussion paper and is in the course of holding public meetings.

In general women have fewer financial resources than men and thus may be unable to obtain adequate legal services, unless they meet the fairly stringent criteria for receiving legal aid.

Article 15.2

> States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

In most respects Australian law conforms with the requirements of this Article.

However, there are two areas of non-conformity. In some jurisdictions women do not have equal rights in regard to the priority in which letters of administration are granted and in relation to the administration of small estates.

Furthermore, some jurisdictions retain the common law rule which permits a wife to pledge her husband's credit.

Court procedures in Australia are governed by the common law (which includes the presumption of innocence, the right to counsel and some of the rules of evidence) and legislation (such as the rules of procedure which are laid down by the courts under their constituting legislation). Both the common law rules and the legislative rules apply equally to men and women.

Article 15.3

> States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

The Australian Government interprets this Article as applying to instruments which seek to restrict the legal capacity of women as a social group. There are no instances where Australian law or practice impinges on this requirement.

Article 15.4

> States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

The main provision of the law relating to the movement of persons within Australia is section 92 of the Commonwealth Constitution, which provides that:

> 'trade, commerce and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.'

This guarantee has been judicially interpreted as including the free movement of persons as well as goods. It applies equally to men and women.

The right of persons to move into and out of Australia is governed by the Commonwealth Passports Act 1938 in the case of citizens, the Commonwealth Migration Act 1958 in the case of non-citizens, and the provisions of the 1951 Convention Relating to the Status of Refugees, to which Australia is a party, in the case of refugees. These apply equally to men and women.

Domicile in Australia was historically determined by the common law, which provided that the domicile of a married woman was that of her husband. However, this rule has now been abolished in all Australian jurisdictions. Section 6 of the Commonwealth Domicile Act 1982 provides:

> 'The rule of the law whereby a married woman has at all times the domicile of her husband is abolished.'

Therefore, the domicile of a married woman will be determined by the same criteria which determine the domicile of a single woman or of a man.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

There are two principal Acts covering marriage and the dissolution of marriage. The Marriage Act 1961 sets out the legal requirement for a valid marriage. The Act defines the concept of marriageable age, and establishes the procedures for solemnization of marriages in Australia. Offences under the Act, such as bigamy, procedural offences such as making false declarations and impersonation of person whose consent is required are incorporated under the Act.

The Family Law Act 1975 is the main law dealing with the ending of a marriage. Unlike previous Australian divorce laws, the Family Law Act does not require one party to be at fault in order for the court to recognise that a marriage has ended.

There is now only one ground for dissolution of marriage - irretrievable breakdown of the marriage. This ground is established if the parties have lived separately for at least twelve months. Either party can apply to the court for a divorce.

The Act established the Family Court of Australia to deal with divorce, custody of children, maintenance of former spouses and the children of the marriage (if any) and division of matrimonial property.

Article 16.1 (a)

> The same right to enter into marriage;

The Marriage Act 1961 provides that a male person is of marriageable age if he has attained the age of 18 years, and a female person is of marriageable age if she has attained the age of 16 years. Section 12 provides that a Judge or Magistrate may make an order authorizing the marriage to a particular person of a male who has attained the age of 16 years or a female who has attained the age of 14 years.

Article 16.1 (b)

> The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

Under Australian law all men and women have the right to free choice of a spouse (subject to meeting the requirements of legal capacity to enter into marriage) and to enter into marriage only with their full and free consent. The provisions of the Marriage Act 1961 establish that a marriage is void if the consent of either of the parties was obtained by duress or fraud.

Many members of the Aboriginal community living in remote areas live a traditional or semi-traditional life observing their traditional customs. In particular, the customs of promised and polygamous marriage are still prevalent in such areas.

Aboriginal traditional marriages are not recognised as such under Australian marriage law, although for purposes of social security benefits recognition is extended.

The Australian Law Reform Commission has issued discussion papers on promised marriage and the recognition of Aboriginal customary marriages. The tentative recommendation on promised marriage is that the present level of intervention by outside authorities into the institution of promised marriage should not be changed. A balance should be found betweeen supporting Aboriginal culture and traditional law on the one hand and possible breaching of Australian law which may occur. It is proposed that the law not be changed: no legal status should be given to promises to marry and young girls should continue to receive the formal protection of the law where they are exposed to duress. However, it is recognised that where intervention is deemed necessary it must be done with care and sensitivity.

On traditional marriages the proposed recommendation is that these would be recognised for particular purposes (eg definition of eligibility for social security benefits). Such an approach would not require legislation in respect of Aboriginal marriage rules and would thus leave Aboriginal communities more freedom to allow the continued evolution of tradition. It would also avoid conflict between Aboriginal marriage rules and the law whilst reinforcing important aspects of Aboriginal ways of life and customary law.

In Aboriginal tradition a girl was married about the time she entered puberty. Under Australian law the minimum age for the marriage of a girl is 14. The Law Reform Commission's view is that a child of an Aboriginal marriage should not be considered to be illegitimate because its mother is only 13 nor should a widow be denied accident compensation for her husband's death because of her age. It is argued that such functional recognition does not encourage youthful marriages but simply recognises their practical consequences where they exist. Aboriginal traditional marriages are not formally registered and the definition of which unions constitute such a marriage is left to the individual Aboriginal community to determine.

Arranged marriages sometimes occur in Australia in accordance with the customs of some ethnic or racial groups. However, remedial processes exist to provide for cases where the consent of a spouse has been obtained by duress.

Article 16.1 (c)

> The same rights and responsibilities during marriage and at its dissolution;

The Family Law Act 1975 contains several provisions which protect the equality of men and women during marriage and at its dissolution.

Section 119 of the Act provides that either party to a marriage may bring proceedings in contract or in tort against the other party. This abolishes the previous situation preventing such action because of the common law doctrine of unity of legal personality of husband and wife.

Part VIII of the Family Law Act 1975 deals with maintenance and property. It provides that each party to a marriage is liable to maintain the other party where the second party is unable to support herself or himself adequately.

Section 79 provides that in proceedings with respect to the property of the marriage, in connection with or following upon proceedings for a decree of dissolution or nullity of the marriage, the court may make an order altering the interests of the property of the parties. In its considerations the court is directed to take into account both financial and non-financial contributions to the property, whether these were direct or indirect, including contributions made in the capacity of homemaker or parent. Sub-section 79(4) provides that-

> 'In considering what order should be made under this section the court shall take into account-
>
> (a) the financial contribution made directly or indirectly by or on behalf of a party or a child to the acquisition, conservation or improvement of the property, or otherwise in relation to the property;
>
> (b) the contribution made directly or indirectly to the acquisition, conservation or improvement of the property by either party, including any contribution made in the capacity of homemaker or parent'.

Article 16.1 (d)

> The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

In relation to children of a marriage the rights and obligations of parties to a marriage and the provisions applicable to a dissolution of the marriage are provided for by the Commonwealth Family Law Act 1975. Parental rights and responsibilities relating to children born to persons who are not married are regulated by State and Territorial law and judicial proceedings in such cases are heard in the State Courts. The laws applied are, however, based on principles similar to those under the Family Law Act.

The Family Law Act 1975 contains provisions establishing equality between the parties to a marriage with regard to rights of guardianship and custody, and duties of maintenance, of the children of a marriage.

Sub-section 61(1) of the Act provides that -

> 'Subject to any order of a court for the time being in force, each of the parties to a marriage is a guardian of any child of the marriage who has not attained the age of 18 years and those parties have the joint custody of the child.

Section 73 states -

> The parties of a marriage are liable, according to their respective financial resources, to maintain the children of the marriage who have not attained the age of 18 years.'

Article 16.1 (e)

> The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

The Commonwealth Government acknowledges that all couples have the right to determine the number and spacing of their children. It therefore has a policy of promoting family planning to enable people to make rational and informed decisions regarding human fertility.

Most family planning advice in Australia is provided by general practitioners in the course of day-to-day consultations. Such services are provided to both men and women without discrimination. There are however legal constraints on the prescription of oral contraceptive pills and the termination of pregnancy, which vary from State to State. See Article 12 (1) above.

Article 16.1 (f)

> The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

In Australia the States are generally responsible for legislation dealing with trusteeship and adoption of children, and the guardianship and wardship of children where child welfare issues are involved.

However, there is some Commonwealth legislation concerned with these problems. Part VII of the Family

Law Act 1975 deals with the welfare and guardianship of children where the Family Court of Australia has jurisdiction, generally where children of a marriage are involved. The provisions of the Act do not discriminate between men and women.

Furthermore, section 64(1) (a) expressly provides that in proceedings with respect to the custody or guardianship of a child of a marriage the court shall regard the welfare of the child as the paramount consideration.

In some jurisdictions there are different age criteria applying to the eligibility of men and women to adopt children. It is considered that these distinctions confer an advantage upon women of a type which is permitted by the Convention, and that in practice the age distinctions do not cause a real difficulty.

Article 16.1 (g)

> The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.

Legislation in most jurisdictions requiring the registration of births provides that the child of a marriage may only be registered in its father's surname; and that a child born outside a de jure marriage must be registered in its mother's surname. It can be argued that as neither men nor women have a choice as to the name in which the child is to be registered there is no discrimination. However, the requirement to register the father's surname seems to reflect an earlier view of the position of the male as 'head of the family' which is now being superseded in law as well as in society generally.

Men and women in Australia have the same rights to choose a profession and to choose an occupation. Women are not required by law to adopt the surname of their husband on marriage, although it has been the common custom to do so.

Article 16.1 (h)

> The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

Australian women, whether married or single, have the right to hold property in their own name and have the same legal capacity to acquire, manage, administer, enjoy and dispose of property as that of Australian men.

The Family Court has jurisdiction, under the Family Law Act 1975, in proceedings between the parties to a marriage, to declare the title or rights to property of the parties to a marriage. Furthermore, in proceedings with respect to the property of the parties to a marriage or of either of them, the court may make an order altering the interests of the parties where it is satisfied that it is just and equitable to do so.

Article 16.2

> The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

As already noted, the Marriage Act 1961 specifies the minimum age for marriage for males and females. A marriage celebrated where either or both of the parties are not of marriageable age is not a valid marriage. The Act makes it a criminal offence to enter, or knowingly solemnize, such a marriage.

The Marriage Act provides that all marriages solemnized in acordance with its provisions shall be registered.

Where Aboriginals continue to live in accordance with traditional customs they may enter into tribal marriages including the marriage of children. Whilst such a marriage has certain legal consequences, involving the status of children born of the relationship and eligibility for social security benefits, there is no recognition actually conferred upon the tribal marriage.

ANNEX

[redacted]

Reservations and Statement

The instrument of ratification of the Convention on the Elimination of All Forms of Discrimination against Women deposited by the Government of Australia with the Secretary-General contained the following reservation.

THE GOVERNMENT OF AUSTRALIA states that maternity leave with pay is provided in respect of most women employed by the Commonwealth Government and the Governments of New South Wales and Victoria. Unpaid maternity leave is provided in respect of all other women employed in the State of New South Wales and elsewhere to women employed under Federal and some State industrial awards. Social Security benefits subject to income tests are available to women who are sole parents.

THE GOVERNMENT OF AUSTRALIA advises that it is not at present in a position to take the measures required by Article 11(2)(b) to introduce maternity leave with pay or with comparable social benefits throughout Australia.

THE GOVERNMENT OF AUSTRALIA advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat-related duties. The Government of Australia is reviewing this policy so as to more closely define 'combat' and 'combat-related duties'.

IN WITNESS WHEREOF, I, *LIONEL FROST BOWEN*, Minister of State for Trade, acting for and on behalf of the Minister of State for Foreign Affairs, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

DONE at Canberra this twentieth day of July, One thousand nine hundred and eighty-three.

[signed] LIONEL BOWEN

Minister of State for Trade for and on behalf of the
Minister of State for Foreign Affairs of Australia

Australia made the following statement at the time of depositing its instrument of ratification;

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise.